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# THE NIAGARA REGIONAL BOARD OF COMMISSIONERS OF POLICE: ITS ROLE AND ACCOUNTABILITY

by  
Dr. Philip Stenning  
assisted by  
Tammy C. Landau

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**Niagara Region  
Review Commission**

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# NIAGARA REGION REVIEW COMMISSION

## BACKGROUND STUDY

### THE NIAGARA REGIONAL BOARD OF COMMISSIONERS OF POLICE:

#### ITS ROLE AND ACCOUNTABILITY

by

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September 1988


This background study has been prepared for the Niagara Region Review Commission to assist it in its deliberations. All recommendations, conclusions or comments in this study are strictly those of the authors of the study and do not reflect the views of the Commission.

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## EXECUTIVE SUMMARY

The Niagara Region Review Commission (Professor Harry Kitchen, Chairperson) commissioned the author to conduct a study on the role and accountability of the Niagara Regional Board of Commissioners of Police. The study was conducted during the months of June and July, 1988, and involved a review of relevant literature and official documentation, a questionnaire submitted to the Chairperson of the Board of Police Commissioners, and a series of interviews with past and present Board members, Regional Councillors, police force members and other interested persons.

The report commences with an historical and comparative review of the concept of a local board of police commissioners, noting that a version of this institution was first introduced in cities in the United States of America during the 1840's, and first introduced in Upper Canada in 1858. The subsequent history of these boards, in Canada and elsewhere reveals great diversity in their composition and size, and in the roles assigned to them. It is noted that such boards have always been the exception rather than the rule in common law jurisdictions (including Canada), the majority of municipal police forces being governed directly by their municipal councils. The membership of most of those boards in other provinces consists of a majority of locally chosen (often elected) representatives. What emerges from this review is that there is no "standard model" for police boards.

There follows a brief review of the history of the Niagara Regional Board of Commissioners of Police. This review reveals that the early decisions with respect to the composition, size and role of the Board followed established practice in Ontario and were not the subject of public debate. Over the years, the Board has had a remarkably stable membership. 9 Provincial appointees and 7 Regional Councillors have served on this 5-member Board during its 17-year history. Substantial changes have occurred in the membership of the Board during the last 5 years, as a result of the fact that all three of the Provincial appointees have been replaced twice during this period. A review of the Board by a local government review commission during the mid-1970's voiced similar concerns to those which are being expressed about the Board at the present time. Its recommendations appear to have had little impact.

Part 2 of the report examines the current Board in detail. The composition of the Board, the processes by which members are chosen for appointment, and their relationships with the bodies which appoint them are reviewed. There appear to be no established criteria for appointment, and once appointed, Board members do not feel that they are bound to accept direction or instructions from the bodies which appoint them. Views about the composition of the Board which were expressed to the researchers by interviewees are critically examined. The report concludes that these views are often neither clearly nor strongly articulated, and that the expectations held by some that the changes they propose to the composition of the Board will resolve the problems which they associate with the present arrangements for police governance in the Region, are probably not well founded.

The research revealed that most of those interviewed favoured an increase in the size of the Board to at least seven members. The two justifications most commonly offered for such an increase were: (1) greater representation on the Board; and (2) an enhanced capacity in the Board to meet its workload. The report notes that research on police boards across Canada suggests that there is no direct relationship between the size and effectiveness of police governing authorities.

There appears to be satisfaction on the part of Board members and others as to the resources currently available to the Board to assist it in its work. Many of those interviewed professed little knowledge on this matter, however.

There was general agreement among interviewees that the openness and visibility of the Board's governance of the police force has increased substantially in recent years. The Board now appears to employ the same criteria in holding in camera sessions as does the Regional Council and its committees. The absence of any effective mechanism to monitor the Board's practices in this regard, however, makes this difficult to assess with certainty. It is relatively rare, however, for the public to be directly involved in the Board's conduct of its business, and the Board does little to actively encourage this. The Board, and particularly its Chairperson have, on the other hand, been the subject of some criticism with respect to their dealings with the media. In particular, critics claim that matters have sometimes been aired in the media before the police force (and sometimes the Board itself) have had sufficient opportunity to consider them and develop their positions and responses.

Concerns have also been expressed by some over the Board's adjudicative role with respect to public complaints against police officers, and internal police disciplinary matters. The main issue here is the Board's impartiality (or at least the perception of it), and the compatibility of these adjudicative functions with the Board's other responsibilities.

Contact between the Board and the Regional Council and administration appears to be quite limited, except at budget time. The Board has taken a strong position regarding its legally defined independence from control or interference either by the Council or by the administration. It has thus resisted attempts by the latter to make its budget process more accessible to, and subject to earlier review by, Regional entities. This appears to have generated a somewhat "hands off" attitude on the part of many Councillors, who, having unsuccessfully called for greater control over the Board, now seek to publicly distance themselves from responsibility for police governance and the police budget. The adverse decision of the Ontario Police Commission on the Region's appeal against the budget proposed by the Board in 1981 seems to have contributed to this situation.

Despite the tensions between the Board and the Council which have existed in recent months, most Councillors interviewed acknowledged that the present Board is much more open and accountable than its predecessors as far as its relationship to the Council is concerned. In particular, the Board has followed the trend of boards in other jurisdiction in presenting much more detailed budgetary information than it used to.

Substantial dissatisfaction has been expressed over the provision whereby the Ontario Police Commission may have the final say over a municipal police budget. This process is criticised on two grounds. First, there are no clearly established and agreed upon standards to guide the Police Commission in its determinations. And secondly, for a variety of reasons, the Commission is not regarded as a sufficiently independent and impartial arbiter for such disputes.

There is clearly some concern within the Region over the relationships between the Board and area municipalities. Part of the problem in this area springs from inadequate understanding of the extent to which area municipalities have been relieved (by the legislation establishing the Region) of responsibility for policing and law and order within their boundaries. Even among those who understand this, however, concerns are expressed over a perceived lack of adequate communication between the Board and area municipalities over matters of particular concern to the latter. Attempts by the Board Chairperson to improve such relations in recent months, however, have apparently not met with an enthusiastic response from area municipal representatives. Despite this, the police force has sought to establish ongoing consultations, at the staff level, with municipal administrations.

Part 3 of the report describes and reviews the role of the Ontario Police Commission with respect to the governance of municipal and regional police forces. There appeared to be both misunderstanding and dissatisfaction with this role among many of those interviewed during the study. In particular, the predominantly advisory, rather than directory, role of the Commission in this area appears to be neither well understood nor regarded as adequate. The failure of the Commission to develop and apply clear and agreed upon standards in its oversight of municipal and regional police services and governance was particularly commented upon. Two other related issues which seem to be of major concern were: (a) the perceived lack of independence (both from the Provincial Government and from the "police community") of the Commission; and (b) its perceived lack of impartiality and objectivity as an investigative, inquisitorial and appellate body in matters of municipal policing. The latter problem is felt by some to be related to the mutual incompatibility of some of the functions assigned to the Commission, and the failure of the Commission to establish adequate organizational separation between these functions. The recent statements of the newly appointed Chairman of the Commission are viewed by many as an encouraging sign in this regard.

Part 4 of the report summarizes the main conclusions of the study and presents some options for future change. The options presented are:

#### Composition of the governing authority

The realistic options here seem to range from leaving things as they are, to completely abolishing the Board and turning the governance of the police force over to a committee of the Regional Council. Between these two poles, the following are some of the options which might be considered:

- A. A board composed of an equal number of provincially appointed and locally elected representatives.
- B. A board composed of a minority of provincial appointees and a majority of regionally appointed representatives, all (or a majority) of whom are non-elected citizen appointees.
- C. A board composed of a minority of provincial appointees and a majority of regionally appointed representatives, all (or a majority) of whom are persons who hold local elected offices.
- D. A board composed of a minority of provincial appointees and a majority of regionally appointed Regional Councillors.
- E. A board composed of a minority of provincial appointees, and a majority of directly elected regional representatives.

F. A board composed entirely of directly elected regional representatives.

There are numerous variations which could be added to these basic models. Thus, qualifications could be added, requiring, for instance, that certain parts of the Region, or certain groups within the Region (e.g. minority ethnic groups, women, merchants, senior citizens, etc.), must be represented on the Board.

With respect to the selection of appointees to the governing authority, there would seem to be room at present for clarification of the criteria which are used, and for improvement in the procedures adopted, in making Provincial appointments to police boards. One option would be to entrust this task to a less obviously partisan body. The Ontario Police Commission, if its independence is guaranteed, might be a suitable candidate. If citizen appointments to the governing authority were to be made by the Region, there would be a similar need for established criteria and procedures for appointment.

Another option worthy of consideration in this area is the establishment of a fixed term of office for appointees to the governing authority. The length of the term should reflect the need to balance the needs for continuity and "new blood" on the governing authority.

Size of the governing authority

There is ample evidence to indicate that the size of a municipal police governing authority is not necessarily related to its effectiveness. In fact, while large bodies can be cumbersome, they can also achieve things which smaller bodies cannot. One of the most important of these from the point of view of a region such as Niagara Region is diversity/coverage of representation. Larger bodies can also accomplish things through subcommittees, which smaller bodies often cannot.

The research on municipal police governance in different jurisdictions indicates that there is no magic in the numbers 5, 7 or 9. The needs of the Region for diversity and coverage of representation, rather than pre-conceived notions of the effectiveness of different sized bodies, should dictate the size of the police governing authority for the Region.

Role of the governing authority

The two main options here would seem to be to clarify the governing authority's role and/or to reduce or expand it.

With respect to clarifying the governing authority's role, one option would be to develop a written role statement for the authority, which would itemise the various different aspects of its role. Such a statement would facilitate public debate over the effectiveness of the authority, the appropriateness of its role, and the appropriateness of the emphasis it places on different aspects of its role.

Another potentially useful step in this respect would be to develop a comparable role statement for the Regional Council as to its responsibilities with respect to the police force.

Possible areas for reduction in the role of the governing authority might include its present licensing function, and hearing and adjudicating public complaints against the police. Each of these could be assigned to other special purpose bodies, although legislative amendments would be required to achieve this.

A possible area for expansion of the role of the governing authority might be that of public education with respect to the policing function and the activities of the authority. Currently the Board appears to have little time for this. Research (e.g. into public attitudes towards the police within the Region, and public perceptions of their policing needs and how adequately these are being met by the force) is another area for possible expansion of the role of the governing authority.

#### Accountability and relations with Regional Council

Numerous options are worthy of consideration here. Preparation and distribution of an informative annual report of the police force and the governing authority, in which their main activities and priorities are highlighted, would be an obvious starting point. Currently there is no such report.

A more aggressive advertisement of the governing authority's meetings and agenda, and solicitation of public participation in such meetings is another option which has been favoured by some authorities.

Regular (annual or half-yearly) formal meetings between the governing authority and the Regional Council (or a committee thereof), and between the governing authority and area municipalities, at which the governing authority can explain its activities and priorities, and be questioned about them, might also be considered as a means of increasing communication and understanding. The kind of standing consultative committees which have recently been adopted in England are another option which might be adapted to meet the Region's needs.

Research across Canada (Hann et al., 1985) shows that there is a great variety of options for increasing the local accountability (and control) of the budget process for the police force. Options here range from requirements for formal or informal consultations with Regional administrators prior to and during the preparation of the budget (including specification of the basis - such as zero-based budgeting - on which the budget will be drawn up, and the form in which it will be presented), to specification of budgetary increase limits and formal within-budget expenditure control procedures.

Clearly, the main issue for resolution in this area is who should have the final say on the budget. Options here would include: abolishing the appeal procedure to the Ontario Police Commission entirely; retaining it, but only on condition that clear uniform standards for assessing policing needs and the resources needed to sustain them are developed and applied fairly to all municipalities; or developing some other mechanism for resolving budget disputes between the governing authority and the Regional Council. In Saskatchewan, for instance, when there is such a dispute, the municipal council is required to strike a committee consisting of an equal number of council members and police board members, which is assigned to try and resolve the matters in dispute. In England, disputes are the subject of negotiation between the local council and the central Home Office, with the latter having the possibility of withdrawing or reducing its 50% contribution to the area's policing costs.

Given the position which the Niagara Board has taken with respect to the control and accountability of the police budgetary process, it is obvious that any of the options just discussed would require changes in provincial legislation in order to be put into effect.

#### The Ontario Police Commission

The main options with respect to the Ontario Police Commission would seem to be either to maintain the Commission as it is currently conceived, and ensure that it is adequately resourced and organized to perform its role, or to alter its role so that it becomes a more interventionist and directive body.

If the choice were to maintain the Commission in its current role, a variety of measures to improve its performance might be considered. These might include: making it more visibly independent from the Provincial government; diversifying its professional staff to ensure a more visible independence from the "police community" in general, and police management in particular; effecting a clearer separation between its advisory, inspectorial, investigative and quasi-judicial functions; and diversifying the membership of the Commission itself.

If the choice were to expand or alter the role of the Commission, to make it a more interventionist and directive body, options might include: requiring it to develop, and keep under continuous review, clear standards for municipal policing and police governance in the Province, and apply these through regular inspections and audits of municipal police forces and governing authorities; requiring it to monitor the accountability of municipal police governing authorities, and in particular their resort to in camera sessions; and entrusting it with the responsibility for making Provincial appointments to municipal police governing authorities.



## INTRODUCTION

In June 1988, the author was commissioned by the Niagara Region Review Commission to conduct a short study of accountability and governing structures for the police function in the Region. Specifically, the terms of reference for the study were defined as follows:

"There has been significant discussion recently about the current structure of police commissions in Ontario. Much of this discussion has centred on how one obtains appropriate political control of the police while at the same time preventing political interference in such a sensitive area. The Commission will be making a recommendation about the appropriate structure for governing the police function and ensuring proper accountability. To assist the Commission in making its recommendation, it would be very useful to have information about the following areas:

i. a review of the current arrangements for the governance of the Niagara Regional Police Force, focussing particularly on the structure, composition and role of the Niagara Regional Board of Commissioners of Police, and its relationship to the Regional Council;

ii. a review of current attitudes and concerns held by interested parties with respect to the adequacy and suitability of the existing arrangements for the governance of the Niagara Regional Police Force;

iii. a survey of the accountability and governing mechanisms employed in other provinces and, to a limited extent, in other countries; and

iv. a complete description of the current role of the Ontario Police Commission with special emphasis on its role in supervising municipal police forces."

The study was undertaken by the author, with research assistance from Ms. Tammy Landau, during the months of June and July, 1988.

The research involved four components, as follows:

1. A review of the extant literature on municipal police governance and accountability in Canada and elsewhere.

2. A review of official documents and recent newspaper articles pertinent to the governance of the Niagara Regional Police Force since 1969.
3. A questionnaire, submitted to the Chairperson of the Niagara Region Board of Commissioners of Police, seeking information about various aspects of the Board and its procedures. A copy of the completed questionnaire is attached as Appendix "A" to this report.
4. Interviews with a number of persons within Niagara Region and within the Ontario Government, who were believed to have knowledge of, and interest in, the subject matter of the study. A list of those persons interviewed is attached as Appendix "B" to this report.

The study has been undertaken on the assumption that there will continue to be a regional police force in Niagara Region. The relationship between the Niagara Regional Board of Commissioners of Police and the Niagara Regional Police Force, however, was expressly excluded from the scope of the study by the Review Commission, since this relationship is being examined by another Commission of Inquiry (into the administration and operations of the force) which is ongoing.

Although the sample of people we interviewed during this study does not constitute a scientifically representative sample either of informed opinion on the subject of our study or of the community generally (the time and resource limits for the study precluded such a survey), it was chosen in the hope that it would provide us with a reasonable cross-section of informed opinion on the subject within the Region. While we believe that the information and views which we have obtained from these interviews are valuable and worthy of attention, we feel that we must warn our readers against attaching more weight to this information than it warrants. The reader must judge for him- or herself, having considered the list of those whom we interviewed (Appendix "B"), what weight to attach to our "findings".

At the outset, the authors wish to thank particularly all those who agreed to be interviewed (in some cases at considerable length) during the course of the study. In addition, we would like to thank the following persons, whose willing assistance made it possible to conduct this study on an extremely tight schedule:

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Except where specifically attributed, the views expressed in this report are those of the authors and do not necessarily represent the views of the Niagara Region Review Commission or its staff.



## PART 1: HISTORICAL AND COMPARATIVE BACKGROUND

### THE CONCEPT OF A LOCAL BOARD OF COMMISSIONERS OF POLICE - AN HISTORICAL AND COMPARATIVE OVERVIEW

In most common law jurisdictions such as England, Canada and the United States of America, the responsibility for the provision of public police services has traditionally been regarded as a local one (see e.g. Critchley, 1978; Stenning, 1982; and Fosdick, 1969). This long historical tradition is, in fact, still reflected in the Police Act of Ontario, Section 2 of which provides that:

2. (1) Every city and town is responsible for the policing of and maintenance of law and order in the municipality and for providing and maintaining an adequate police force in accordance with the police needs of the municipality.

Prior to the advent of elected local governments in the 19th Century, this local responsibility was fulfilled through the local office of the Justice of the Peace in England and Canada. Local Constables and High Constables were sworn in by, and accountable to, this local judicial and administrative officer. With the democratisation of local government in the 19th Century, this responsibility passed to the newly established, elected borough and municipal councils. "Watch Committees", composed entirely of members of the local, elected municipal councils, were established as the most common institution of municipal police governance (Stenning, 1982: Chs. 1 & 2).

The idea of a local board of commissioners of police which did not follow this traditional model of municipal police governance, originated in the United States of America. According to Fosdick (1969: 77), it first emerged in an ordinance proposed (but never passed) in New York in 1844. The board proposed by this ordinance was to be composed of seven senior officers, including the Superintendent, of the New York City police department, and was to be charged with "general administrative functions." This idea was taken up and put into effect in the City of Philadelphia in 1850, but later in the same year the composition of this first board was changed so that it consisted of the marshal of police and the presidents of the respective town boards of the communities within the police district.

Three years later, a "board of police commissioners" was established to govern the New York City police force. This board consisted of the City Mayor, the Recorder and the City Judge. According to Fosdick,

Apart from the fact that the chief of police was

selected by the mayor with the board's approval, the board had full powers of appointment and dismissal of all members of the force and was charged with general administrative duties. (1969: 78)

Noting that "the origin of this novel experiment, particularly in its relation to police organization, cannot be determined," Fosdick explained the change (which, he said, "came into instant and widespread favor") in the following terms:

The office of mayor had not yet been associated with broad executive powers, and appointments, as well as administrative responsibilities, were lodged in the common council. The decade just referred to [i.e. 1845-55], however, witnessed a pronounced decay in these wide powers and the waning influence of the council as an administrative body. This change was undoubtedly due in part to the rising democratic sentiment which brought with it a pronounced distrust of the legislative departments of the government, both state and local. It was due, too, to the growing complexity of municipal functions and the increasing difficulties of supervision through committees of council. (1969: 76-77)

Fosdick also noted that, in creating the police board in 1853, "the legislature had hoped to eliminate the political favouritism and ward control which prior to that time had dominated the [police] department." This hope, he added, was justified only in part, mainly because "the recorder and the city judge, serving ex officio, took little interest in the affairs of the force, and control was gradually assumed by the mayor" (1969: 80-81).

In 1858, the legislature of Upper Canada enacted the Municipal Institutions of Upper Canada Act, Section 374 of which provided that in each of the five cities in the colony there was to be a Board of Commissioners of Police. Section 379 provided that "[T]he Constables shall obey all the lawful directions, and be subject to the government of the Board...". These boards were clearly modelled on the New York City board established five years earlier, as they were to consist of

...the Mayor, Recorder and Police Magistrate, and if there is no Recorder or Police Magistrate, or if the offices of Recorder and Police Magistrate are filled by the same person, the Council of the City shall appoint a person resident therein to be a member of the Board, or two persons so resident to be members thereof, as the case may require. (Section 374)

In a footnote to the 1859 edition of The New Municipal Manual for Upper Canada, the editor, referring to Section 374 of the Act,

wrote that "[t]he object of this and the following sections is as much as possible to make the Police force of a city independent of the City Council" (Harrison, 1859: 221, note (j)). It will be noted, however, that the possibility of majority local political control of the new police boards was not entirely ruled out by the 1858 legislation.

The idea of a board of police commissioners as a municipal police governing authority, thus imported into Upper Canada in 1858, was subsequently adopted in other Canadian jurisdictions, although often with great modifications, with the result that by the end of the 19th Century there was a great variety of police boards in Canada. Many of the boards which were established were dominated by locally elected members, rather than by appointed members as was the case in Ontario. Many jurisdictions, however, did not adopt the police board concept at all (for an historical review, see Stenning, 1981: Part I, Ch. 1). Even within Ontario, as we have seen, the police board concept was originally applied only to the five cities. While it was later expanded to other municipalities, it has never been a requirement for all municipalities which maintain their own police forces.

#### (i) Composition of police boards

Within municipal and regional policing in Canada today there is a wondrous variety of differently composed police governing authorities. Indeed, it would be impossible to review all the different kinds of police governing authorities in Canada in a few pages (for a review, see Stenning, 1981; and Hann *et al*, 1985). Some useful generalisations can be presented, however.

The two main distinctions to be made with respect to the membership of police boards are: (1) are members elected, appointed or do they serve ex officio (e.g. by virtue of being the mayor, or the local county court judge or crown attorney)? and (2) are they locally or provincially chosen. Even within these categories, other qualifications or disqualifications for membership apply in some jurisdictions. These include:

- must be a resident or ratepayer of the municipality
- must be qualified for local election
- must not be (or have been) a member of the (or any) police force
- must not hold any other (or specified) local office

Examples of each of these categories of membership of municipal police governing authorities can be found in the history of these institutions in Canada. The principal author of this report identified governing authorities representing more than forty different combinations of the various types of membership just

described, in his review of the variations in the composition of police governing authorities throughout the history of these institutions in Canada (Stenning, 1981). Interestingly, there appears to have been no instance of direct election to membership of a police board in Canada (as is the case, for instance, with boards of education in many jurisdictions).

The most critical questions usually asked about the composition of municipal police governing authorities, of course, are: (1) Are the majority of the members of the authority elected or non-elected people? and (2) Are the majority of the members of the authority chosen by the municipality, chosen by the Province, or ex officio?

In Canada, most municipal and regional police governing authorities have always consisted of a majority of locally elected members. Even in Ontario, which was the first jurisdiction to adopt the model of a board with a majority of non-elected Provincially-appointed members, it is only in recent years that the majority of municipal police forces have been governed by such boards. Although the size of the municipality (and hence usually of the police force) determines the nature and composition of the governing authority in Ontario, this is not the case in many other provinces. Many of the larger police forces in Canada (e.g. Montreal, Winnipeg, Edmonton, Calgary, Halifax) are governed by police governing authorities consisting of a majority of locally chosen (and in many cases locally elected) members.

In England and Wales, all of the 43 regional police forces, with the exception of the London Metropolitan Force (which is governed directly by the Home Secretary), are governed by police authorities which consist of a majority of locally elected members.

Municipal police forces in the United States have proved too numerous even to be accurately counted, and no comprehensive review of the arrangements for the governance of these forces has ever been undertaken. In an attempt to describe the governing authorities of some of the larger municipal police forces there, Swanton (1979: Ch. 3) indicated that the great majority of those he looked at were subject to some degree of control by governing authorities composed either completely, or mostly, of locally elected or appointed members.

Therefore, the Ontario 3- or 5-member board, with a majority of non-locally appointed, non-elected members, stands out as an exception, not only in Canada, but on the international scene as well.

In 1981, the author of this report, in collaboration with the Canadian Police College, undertook a study of municipal police governance in Canada. The study included almost every municipal police force and R.C.M.P. municipal detachment in the country. One of the findings of that study bears quotation here:

The literature indicated that municipal forces governed by boards and those governed directly by councils may differ in the division of responsibilities for decisions between the governing authorities and police personnel. We found no such differences among Quebec municipal forces, other Canadian municipal forces and R.C.M.P. detachments in the pattern of division of decision-making responsibilities. (Hann et al, 1985: 78)

Indeed, the study found no relationship between the composition of the governing authority and either the extent of governing authority involvement in decisions with respect to the police force, or the perceptions of police "independence" held by police chiefs and governing authority chairmen.

In light of these findings and the historical and present reality in Canada and elsewhere, the argument that giving a local municipality control over the appointment of a majority of the members of its police governing authority would be likely to lead either to a reduction in the quality of police service or an outbreak of improper political interference in the policing function, seems hard to sustain in the 1980's. One would think that were this likelihood a reality, evidence of it would be readily apparent and not hard to document. Clearly there are effective ways of protecting police forces from the supposed evils which attend local democratic governance of them.

#### (ii) Size of police boards

The size of municipal police governing authorities in Canada has varied historically between a low of 3 (the size of the smaller boards in Ontario) to a high of 16 (in Dartmouth, Nova Scotia, where, until recently, the governing authority consisted of the entire City council plus one person appointed by the Provincial Attorney General). There is a trend in Ontario towards somewhat larger (5-member) boards in the larger municipalities. In some other Canadian jurisdictions, however, the trend has been in the other direction. Thus, Nova Scotia has just proclaimed legislation (in May 1988) which would limit the size of municipal police boards to at least three and not more than seven members. The members would all be appointed by the local municipality except one member appointed by the Provincial Attorney General). Prior to this amendment, boards in that province could consist of as many members as the local council saw fit to appoint, plus one person appointed by the Provincial Attorney General. Immediately prior to the amendment, there was one 8-member board, three 10-member boards, and one 16-member board in the Province.

The most common size of municipal police boards in provinces outside Ontario, however, is 5 members. Five seems also to be the most common number for membership of municipal police boards in the United States although information about municipal police governing authorities in that jurisdiction is by no means compre-

hensive (see Swanton, 1979: Ch. 3). In Australia, there are no municipal police forces, only large state forces. The New South Wales Police Force is the only one of the six state police forces to be governed by a board (as opposed to being governed directly by the State Police Minister); the New South Wales Police Board (which governs a police force of just over 11,000 members) consists of three people (the Commissioner of Police and two State appointees).

In the United Kingdom, where almost all of the police forces are now regional forces, the police governing authorities are very large indeed, consisting in many cases of between 25 and 50 people. The police forces which they govern typically serve areas with quite large populations, and would be regarded as large forces by Canadian standards.

The 1981 study of municipal police governance in Canada which the author undertook in collaboration with the Canadian Police College found no significant relationship between the size of governing authorities and either their role or the extent of their involvement in decisions affecting the police forces they governed (see Hann et al., 1985).

#### (iii) Role of police boards

The role which is assigned to police boards in the governance of their police forces varies greatly from one jurisdiction to another. In most cases, the police board's mandate is more or less clearly set out in the relevant police legislation (as is the case, for instance, with the Police Act of Ontario). In some jurisdictions, however, the role of a board, and the scope of its authority to govern the police force, is left by legislation to be determined by some other authority (most typically the municipal council, by by-law). In these circumstances, the role of a police board may be extensive or quite modest, depending upon the preferences of the municipal councils involved. The Police Acts of Nova Scotia and Prince Edward Island, and the City of Winnipeg Act provide illustrations of legislation which allows this kind of flexibility for municipal councils. The only thing which seems to be common to every jurisdiction in Canada in this regard, is that in all cases the power of final approval of the budget for the police force (and for the police board) is vested in some body other than the police board itself (usually the municipal council). In Ontario and British Columbia, this power is vested ultimately in the provincial police commission (see Section 14(3) of the Ontario Police Act, and Section 23(2) of the British Columbia Police Act).

We consider the role of police boards in Ontario further in our discussion of the role of the Niagara Regional Board of Commissioners of Police, and of the Ontario Police Commission, below.

It will be evident from this brief review of arrangements for municipal police governance in other jurisdictions, that there is great variety in the way different jurisdictions, within and outside Canada, go about organizing and governing the local policing function. We begin our review of the arrangements in the Niagara Region, therefore, with the understanding that there is nothing sacred, or even particularly typical, about the current arrangements there. What must be assessed is whether the present arrangements are best suited to the needs of the Region and of the Province of which it forms a part.

#### **A BRIEF HISTORY OF THE NIAGARA REGIONAL BOARD OF COMMISSIONERS OF POLICE**

The Niagara Region was the first area of the Province, after Metropolitan Toronto (which established a Metropolitan police force in 1957) to establish a regional police force. This development occurred in connection with the establishment of general regional government in the Niagara region. Interestingly enough the Niagara Region Local Government Review (the Mayo Commission), which had recommended regionalization of local government in its 1966 report, had stopped short of explicitly recommending the creation of a regional police force, although it did envisage that there would be a "Metropolitan Police Commission" (see Ontario, Niagara Region...., 1966: 27 and 65). It did not discuss, however, what the composition or role of this Commission should be. But it did recommend that "all policing, except for such forces as the O.P.P. (on provincial highways), and the police of the Niagara Parks Commission", should be among the functions of the Metropolitan Council which it proposed for the Region.

In its initial responses to the Mayo Commission report, the Provincial government rejected the idea of a regional police force in Niagara, and it was evidently only a change of heart on the part of the Ontario Police Commission (which had originally favoured amalgamations but opposed the creation of a single regional force) that led to the final decision in favour of a single regional police force (Loreto, 1984: 361-363). The fact that the new regional police force which was to be created would be governed by a regional board of police commissioners whose composition would reflect that of other existing municipal boards of police commissioners in the Province (and especially that which had been created for the Metropolitan Toronto Police Force) - i.e. it would be composed of a majority (3) of provincial appointees and a minority (2) of regional government representatives - was apparently assumed, and not made the subject of discussion, in the plan for regional policing (Loreto, 1984: 364).

Two points are worth noting about these events. In the first

place, there was substantial opposition within the Region to the establishment of a regional police force. While much of this opposition was expressed in terms of fears about increases in cost and decreases in the quality of service which its opponents thought were inevitable consequences of regionalisation of policing, concern was also expressed about the reduction of local input into policing policy and decision-making which would accompany regionalisation.

However, we have been given to understand that ten of the eleven local police forces which existed within the Region immediately prior to the creation of the regional police force had been governed by boards of police commissioners, the composition of each of which had consisted of a judge (chosen by the Provincial Government), the head of the local council, and a third person appointed by the Provincial Government (see Item 2 in Appendix "C", below). The area municipalities in the Region, therefore, already had substantial experience of a structure of municipal police governance which did not allow for majority representation on local police boards by locally elected representatives. In this light, it seems likely that a concern over the lack of majority representation by locally elected representatives on the police governing authority was not per se a major element of the opposition which was expressed to the regionalisation of policing. However, regionalization, with a police board whose composition reflected the prevailing majority provincially-appointed membership, did have the effect of further reducing local representation in police governance, since many of the municipalities which had had at least one local representative on their police governing authorities before, no longer had such direct representation after regionalization.

The final decision of the Provincial Government to opt for a regional police force in Niagara was not announced until three years after the Mayo Commission had submitted its report. It was to be another two years before the regional force was finally brought into being in 1971. The Niagara Regional Board of Commissioners of Police which was to govern the new force, was established on November 18th, 1969. Its first major task was to oversee the transition from eleven municipal police forces in the region (with the Ontario Provincial Police Force policing the rural areas) to a single regional police force with responsibility for policing throughout the region.

The Board of Police Commissioners which was appointed in 1969 consisted of a County Court judge as its chairman (appointed to the Board by the Province), a businessman and a lawyer (both appointed by the Province), and two members of the new Regional Council chosen by the Council itself. There was no requirement in the provisions of the statute pursuant to which the Board was established, that the head of the Council (the Regional Chairman) be a member of the Board, as was the case with other municipal police boards in the Province, including the 5-member Metropolitan Toronto Board (see Section 115 of the Regional Municipality of Niagara Act, 1968-69, c. 106).

The three members of the Board who had been appointed by the Province in 1969 remained members of the Board for the next 14 years, finally retiring in 1983. During this time, the County Court Judge remained Chairman of the Board from 1969 to 1977, with the lawyer taking over this position from him in 1978 until 1983. In 1984, three new Provincial appointments to the Board were made, replacing those who had retired. By this time, the practice of appointing judges as members of municipal and regional police boards had ended, and the three new appointees were a businessman, a manager and a school teacher.

In 1984, for the first time since the Board's inception, one of the Regional Council representatives on the Board (who was also the first of only two women ever to be appointed as members of the Board), became Chairwoman of the Board. In 1985, the manager who had been appointed by the Province became Chairman.

In 1986, the terms of the three Provincial appointees who had been appointed by the Conservative government in 1984 were not renewed, and the new Liberal government appointed three new members to the Board, two of them former municipal politicians from cities within the Region, and the third a senior academic at Brock University in St. Catharines. These three are still members of the Board. One of the former municipal politicians became Chairwoman of the Board in 1987 and still holds that position. In 1986-87, the Chairmanship had been held by one of the Regional Councillors on the Board, who had been a member of the Board since 1979 (and still is). From this it will be apparent that the Chairmanship of the Board has been held by Provincial appointees during 17 of the 19 years of the Board's existence so far.

It has been noted already that between 1969 and 1983 the Provincially-appointed membership of the Board did not change. During this same period, six Regional Councillors filled the two Regionally-appointed positions on the Board. Of these, one served on the Board for 9 years, one for 7 years, one for 4 years, one for 3 years, and the other two for one year each, during this period. The one who had served for 4 years by 1983 is still a member of the Board (having served now for 9 years, 1 as Chairman). One of those who had served for one year by 1983 stayed on the Board for another year (as Chairwoman).

Since 1983, the Provincial appointees have changed twice, in each case all at once, and each set having served (so far) for two years. During this same period, the two Regionally-appointed positions on the Board have been filled by only three different Regional Councillors. In fact, of the two Regional Councillors who are presently members of the Board, one has been a member since 1979, the other since 1985.

In all, 9 Provincial appointees and 7 Regional Councillors have served on this 5-member Board during its 19-year history. From this it will be clear that the membership of the Board has been remarkably stable throughout most of its existence, and that

there have been quite long periods (of between 3 and 7 years) in the Board's history during which either its membership has not changed at all or only one of its five members has changed. The only major upheavals in the membership of the Board, in fact, have been the two occasions (in 1984 and 1986) on which the three Provincial appointees have all been replaced.

This pattern of membership has made for considerable stability and continuity in the make-up of the Board over the years. It is a pattern which appears to be threatened by recent changes in Provincial practice with respect to appointments to such Boards. We shall return to this subject further below. The short duration of this study unfortunately made it impossible to undertake a detailed examination of the activities of the Board during the 19 years of its existence. Nor does any other body appear ever to have examined the operations of the Board in detail. Although the Niagara Regional Police Force has not escaped scrutiny over the years (for instance, the Ontario Police Commission, at the request of the Board, undertook a major review of the Force in 1980), such studies have never included examination of the operations of the Board. These matters, however, will be addressed by the Commission of Inquiry which has recently been appointed by the Province to inquire into the operations of the Niagara Regional Police Force (His Honour Judge Colter, Commissioner).

The Board is by no means unique in this respect. It is only in recent years that there has been any serious or systematic research or inquiry into municipal police governance, either in Canada (see e.g. Stenning, 1981; Hann et al., 1985; Pelletier, 1985) or elsewhere (see e.g. Brogden, 1977; Loveday, 1985 and 1987; Morgan & Swift, 1987). Most of these few studies have been general studies of municipal police governing authorities rather than in-depth examinations of individual authorities (Loveday, 1985, and Pelletier, 1985, are exceptions).

As has been noted, the Mayo Commission, in that part of its report dealing with policing, apparently did not consider the subject of police governance to be worthy of discussion, other than to note that a governing authority should be established. In 1975, however, another Review Commission was appointed to look at regional government in Niagara. In the two pages of his report devoted to the subject of policing in the Region, the Commissioner, Mr. William Archer, Q.C., had the following to say about the Board:

There appears to have been excessive secrecy in carrying out the activities of the Police Board; a more open approach is required.

According to the Ontario Police Act, meetings of the Board shall be open to the public unless the Board directs otherwise. If the Board decides to hold a session in private, it is not obliged to publish or make available to the public the Board

minutes covering that session. It is the view of this Commission that the Board has a high degree of responsibility to have public disclosure whenever possible. Unless there is specific reason to do otherwise, matters should be considered in public or, at least, the results of the private meetings should be made public. While the Commission acknowledges that police work often requires secrecy and security, it is aware that this can be carried too far. Proposed changes or actions relating to the policing function should be made public in advance along with reasons.

The Commission's investigations turned up incidents of dissension between the Police Board and the Police Association. Confidence between employer and employee is a very fragile but necessary state of affairs. The Commission advocates that every effort be made to restore a degree of harmony between the Board and the Association. This is the responsibility of the Board, and particularly the Chairman of the Board. Once good faith and mutual understanding are established, negotiations should become more favourable and a willingness to modify prior rigidities, such as the four platoon system, should prevail. (Ontario, Niagara Region...1977: 68)

The Review Commission also commented on the composition of the Board:

There has been much debate in Niagara as to whether the majority of the appointments should be made by the Provincial or the Regional Government. This Commission recommends that a majority of the appointments should be made by the Regional Council, as it is that body which pays the major portion of the cost of policing and has the direct responsibility to the electorate of the Region. Based on its examination, this Commission has not found any substantial arguments which would indicate that police service in the Region would suffer if the majority of the Police Board were appointed by the Region as opposed to the Provincial Government. Adequate channels of communication to the Provincial Government, satisfactory relationships with the Ontario Police Commission and the Ontario Provincial Police, and maintenance of standards of service could adequately be maintained if the majority of the appointments were made by the Regional Council. (Ibid.: 67)

The Commission also recommended that the (then) requirement that

one member of the Board should be a judge, should be abolished and that none of the members of the Board should be a judge.

High-minded as these pronouncements of the Review Commission undoubtedly were, it is not clear that they were based on any substantial research into the operations of the Board. If they were, such research was not published. (The Commission did publish other studies which it had commissioned.)

It is clear, however, that Mr. Archer's recommendations had little impact. For by the mid-1980's the same concerns about excessive secrecy on the part of the Board, and about its poor relations with the Police Association, were still being heard. And it was not until 1984 that the membership of the Board did not include a judge (see S.O. 1983, c. 56, s.5, which removed the requirement that one member of the Board was to be a county court judge; a contemporaneous amendment to the Police Act (S.O. 1983, c. 57, s. 1(2)) prohibited the appointment of judges or justices of the peace as members of police boards in Ontario).

Their minimal impact aside, however, the Archer Commission's reflections on the Board seem to have been the only official attention its activities have received during its 19-year history.

In 1971, responsibility for a variety of licensing functions, which had hitherto been vested in the various area municipalities in the Region, was transferred to the Board. For the most part, this responsibility consists in the licensing of taxis, wreckers' yards, scrap yards and second-hand goods shops (see Section 124 of the Regional Municipality of Niagara Act). As we shall see note below, it requires considerable time and resources of the Board to be devoted to it.

## PART 2: THE CURRENT BOARD

### COMPOSITION OF THE BOARD

Section 117 of the Regional Municipality of Niagara Act, R.S.O. 1980, c. 438 (as amended by S.O. 1983, c. 56, s. 5) now provides that the Board shall be composed of

"(a) two members of the Regional Council appointed by resolution of the Regional Council; and

(b) three persons appointed by the Lieutenant Governor in Council."

Of the five members now on the Board, therefore, three have been appointed by the Province and two by the Regional Council. The three Provincial appointees were all appointed to the Board in 1986. Of the two Regional appointees, one has been a member of the Board since 1979, the other since 1985. While the current members have only been on the Board together for two years, between them they now have 18 years of Board experience.

Of the three Provincial appointees on the Board, one, a woman who has been Chairperson of the Board since 1987, is a former member of the St. Catharines City Council, and so has considerable local political experience. She feels that she has "the advantage of having now seen the Police Board from both sides." The same may be said, to some extent, of another of the Provincial appointees, who is now retired, but is a former Mayor of Niagara Falls. This member of the Board also has had previous experience, prior to regionalization in Niagara, as Chairman of a municipal police committee (i.e. a committee of a municipal council). He has more than 25 years of experience in municipal politics in the Region.

The third Provincial appointee currently holds the position of Dean of Administrative Studies at Brock University in St. Catharines.

Of the two Regional Councillors currently on the Board, one is a former alderman of the City of St. Catharines, and the other is the Mayor of Port Colborne. Thus, a majority of the members of the Board (3 out of 5) are from St. Catharines.

### The Provincial appointment process

We have endeavoured to discover the process by which persons are appointed to the Board by the Provincial Government. Our sources of information on this point have been the current Provincial appointees themselves, a member of the staff of the Ontario Police Commission, and an assistant to the Solicitor General

of Ontario. This last person, who is a member of the Minister's personal staff, rather than a career civil servant, apparently has the principal responsibility for making recommendations to the Minister with respect to appointments to each of the 70 or so boards of police commissioners in the Province.

We were particularly interested in pursuing this matter because of the allegation, which we heard many times during our interviews, and which was recently made publicly by a former Chairman of the Board whose term on the Board was not renewed by the Provincial Government, that the Provincial appointments are "political" ones.

We have been told that there are no clearly established criteria or procedures in the Provincial appointment process. It is evidently a somewhat loose, informal process, and the fact that it is administered by a member of the Minister's political staff rather than by a person or body within the permanent public service may perhaps lend credibility to the belief that it is a "political" process.

We have been assured that appointees are chosen from those who apply to the Minister for appointment (usually by writing a letter expressing their interest). Apparently there are always many more applicants than there are positions to be filled. While application is said to be the only route to appointment, this does not of course mean that potentially suitable candidates are not sometimes "encouraged" to apply. In fact, we have learned that this was the case for all three of the current Provincial appointees on the Niagara Board. Two Provincial cabinet ministers, each of whom represents a riding in the Region, were apparently involved in encouraging the three current Provincial appointees to apply for appointment. We have been unable to discover whether the involvement of these cabinet ministers in the process of appointment went any further than this initial encouragement.

In selecting appointees from the pool of applicants, we have been told that three principal criteria are invoked in practice. These are: (1) Does the applicant have a recent history of substantial involvement of some kind in the community with respect to which he or she is seeking appointment? (2) Will the applicant, if appointed, be able to devote sufficient time to the performance of his or her duties as a member of the Board? (We could not, however, get any clear answer as to how this is determined); and (3) Does the applicant have a criminal record?

Application of the first two criteria is evidently accomplished solely through an examination of the applicant's curriculum vitae, which he or she is requested to submit. Applicants are not interviewed (we were told that this would be too time consuming), nor are references sought or followed up. The third criterion (criminal record) is apparently referred to the Ontario Police Commission for verification. Beyond this function, and maintaining up-to-date lists of the memberships of police boards

throughout Ontario and information as to when appointments are due for renewal or replacement, the Ontario Police Commission apparently plays no role in the appointment process.

When the Assistant to the Minister has decided on suitable recommendations for appointment, a list of recommended appointees is forwarded to the Minister. These recommendations, we were told, are normally accepted without further review by the Minister. We were told that there are too many appointments to be made for such personal review to be practically feasible. The Minister's Assistant asserted to us that the political leanings or affiliations of applicants do not play a role in whether they are selected for appointment, although he could not, of course, speak for previous administrations on this point.

Appointments to police boards are evidently made for one- or two-year terms. The present Provincial Government has also adopted a policy that no appointee shall serve on any police board for more than six consecutive years.

One aspect of Provincial practice in making appointments to the Niagara Board which was the subject of comment in a number of our interviews, is the practice of replacing all of the Provincial appointees at once. As we have noted, this had occurred twice with respect to the Niagara Board within the last five years. It is criticised by some as impairing the continuity of the Board, and leading to a situation in which a majority of the Board's members are inexperienced with respect to their role on the Board and are learning the job.

We have been told that no systematic monitoring of the performance of appointees is undertaken by Provincial authorities following their appointment. Files are not kept on them, nor are newspaper or other accounts of their activities monitored. Complaints to the Government against Provincial appointees to police boards are apparently virtually unknown.

At renewal time, however, we were told that inquiries are made as to the performance of appointees. The Ontario Police Commission is apparently asked to advise as to appointees' attendance record at Board meetings. Although there is apparently no fixed criterion on this, we were told that appointees are expected to have attended "most" of the meetings during their tenure (by way of example only, we were told that attendance at 8 out of 12 meetings would be considered satisfactory). As to other aspects of performance, we were told that local "contacts" (which may include other members of the appointee's board) are consulted; but it was not made clear to us what kind of people these "contacts" are, or what kind of matters they are asked to advise about. While there is no positive presumption in favour of renewals of appointments, we were told that the Government tries to renew appointments whenever possible, in order to foster continuity on boards and to take advantage of the experience which board members have gained in doing the job for a while.

## Relationships between Provincial appointees and Provincial authorities

With respect to the relationship between Provincial appointees and the Provincial Government, we were told that appointees are not considered to be subject to direction or instruction by the Solicitor General with respect to the performance of their duties on the board. In fact, we were told that the present Solicitor General has never (and would never) contact a Provincially-appointed board member to convey such instructions or direction, or even to express her views on any aspect of the Board's functions.

In our interviews with Niagara Region Board members, however, we have been told of at least one occasion on which a member of the Ontario Police Commission, during a closed session of the Board, expressed very forcefully concerns which the Provincial Government had about the way the Board was handling a particular matter, and suggested that the Board should approach the matter in a different way. One member of the Board indicated to us the clear impression that "repercussions" could be expected to follow if this advice was not heeded, although exactly what form such repercussions might take was evidently not spelled out. There is evidence of a similar, but more public, communication having been made by a previous Solicitor General to the Waterloo Region Board during the crisis which that board was going through in 1978 ("McMurtry says he may act if police report is ignored", Toronto Globe and Mail, 1st December, 1978).

The relationship between the Niagara Board and the Provincial Attorney General and Solicitor General has been unusually intense recently, due to the particular circumstances of allegations of major improprieties within the Niagara Regional Police Force, which led to the resignation of the Chief of the Force in 1987 and the establishment of a provincial inquiry into the force earlier this year. Because of this, and because some of the activities of provincial agencies, and their relationship to the Board, may be the subject of investigation during the inquiry, members of the Board were understandably reluctant to discuss these relationships with us in any detail during our interviews with them.

Nevertheless, most of the Board members told us that under more "normal" circumstances, there would be little direct contact between the Board and the Attorney General, the Solicitor General, or their Departments (we discuss relationships with the Ontario Police Commission separately, below). One member of the Board expressed the view that there is not normally enough contact and communication between the Board and the Attorney General and Solicitor General. Another expressed considerable unease about the nature of recent contacts between the Board and these Ministries, but was reluctant to elaborate on this further in view of the up-coming provincial inquiry. Each of the three

Provincial appointees seemed to be agreed that the fact of their Provincial appointment does not render them subject to directions or instructions from Provincial authorities with respect to the performance of their functions as Board members, although one added that such appointees can reasonably be expected to listen to advice on such matters from the Solicitor General or Attorney General.

### Choosing the Regional representatives

We have not been able to learn a great deal about how Regional Councillors are chosen by the Council to be members of the Board. Our analysis of the history of the membership of the Board (above) shows that the length of time which Regional representatives have served on the Board varies greatly - from a high of 9 years in two cases (one of these is still on the Board), to a low of 1 year in one case.

Obviously, with only two representatives on the Board, the Regional Council can do little to ensure a balance of representation on the Board from the different parts of the Region. Indeed, the fact that one of the current Regional Councillors on the Board comes from the same city as two of the Provincial appointees, suggests that attempts to "balance" the geographical representation on the Board do not enter into the choice of Regional representatives. One of the Regional Councillors on the Board commented on the fact that the current Board is so geographically unrepresentative of the Region, referring to what he described as a "North/South split" on the Board.

Interest in taking on the position is clearly the major prerequisite for being selected by the Council to be one of the two Regional representatives on the Board. We were told that there is always some competition for these positions, but rarely strong competition. Two related inhibiting factors were mentioned to us.

The first is that, recently at least, membership of the Board has the reputation of carrying with it a substantial workload. This reputation is reflected in the perceptions of every member of the current board. Hence, membership on the Board is undoubtedly not attractive either to those who already have substantial other commitments, or to those who, for other reasons, may want a less demanding assignment.

In some cases this matter of the workload was mentioned in association with a reference to the fact that while the Provincial appointees are required by law to be paid a stipend for their services on the Board, the Regional representatives are not. The Chairperson is paid \$8,500 a year for her service on the Board, and the two other Provincial appointees are each paid \$6,000 a year.) The Regional representatives receive no additional stipend for their services on the Board. It is felt by some that the perception of inequity which this engenders may discou-

rage some from seeking appointment as Regional representatives on the Board.

The political leanings or affiliations of Councillors do not seem to have been a significant factor in the Council's choice of representatives on the Board. At present, we have been told, one of the Councillors serving on the Board is a Conservative, and the other a Liberal. We shall return to this subject further below. For the moment, it is worth simply noting that the assumption, which seems to underlie much of the opposition to allowing the Council to appoint the majority of the members of the Board - namely, that this would inevitably lead to undesirable partisan influence over policing - does not seem to be consistent either with past practices with respect to Council appointments to the Board, or with the realities of Regional politics more generally.

This, it should be noted, is not a new insight. The same point was made by the Chairman of the Waterloo Region Review Commission (Mr. W.H. Palmer) in his final report to the Government in 1979 (Ontario, Waterloo Region....1979: 156). Indeed, that report, together with its accompanying study of "Police Governance in Waterloo Region" (Ontario, Waterloo Region...1978), remains the clearest articulation of the case in favour of Regional Council control over appointments to a Regional police board yet published (for another report strongly advocating this, see Ontario, Royal Commission on Metropolitan Toronto, 1977).

#### Relationship between Regional appointees and Regional Council

Both of the current Councillors on the Board expressed the view to us that as members of the Board they are not the "representatives" of the Council, in the sense that they are obliged to take instructions from, or necessarily reflect the views of, the Council as a whole, or the majority on Council, in performing their duties as Board members. They both acknowledged, however, that as the Council representatives on the Board, they have an important responsibility to act as a channel of communication and accountability between the Board and the Council.

Neither the Police Act nor the Regional Municipality of Niagara Act gives any assistance in determining what is the proper relationship between the Regional Council and its appointees to the Board. In particular, neither of these statutes provides for any set term of office for members of the Board. It would seem that the Council could, at any time, revoke the appointment of either of its appointees on the Board. It is not clear whether such an appointee would have any recourse against a Council which exercised this power in response to a decision made by the Councillor as a Board member, with which the Council did not agree. Happily, this situation does not seem ever to have arisen in the Region.

## Views about the composition of the Board

In choosing whom to interview, we were seeking as wide a spectrum of views about the Board as could be found in the Region. We were somewhat surprised, therefore, to find how little variety of views we encountered with respect to the composition of the Board. Indeed, with one exception, the only concern which most of our interviewees expressed about the composition of the Board was on the question of whether the majority of the Board should be Provincially or Regionally chosen.

As the Archer Report (quoted above) illustrates, the question of the composition of the Board - and in particular whether the Province or the Regional Council should appoint the majority of its members - has been on the public agenda for a number of years now. In January of 1988, the Regional Council, by a majority of 16-8, voted to request the Solicitor General to permit a doubling of the Regional Council representation on the Board (from 2 to 4), so that Council-appointed members would form a majority on the Board. There have apparently been four previous attempts by the Council to achieve such majority representation since the Board was first established in 1971 (see "Police board composition to stay", Niagara Falls Review, 6th April, 1988). In April of this year, the Solicitor General wrote to the Region rejecting its request. In her letter she wrote:

My ministry takes the view that policing is a matter over which the province must exercise a significant degree of authority. For that reason, it is important that the Province maintain its dominant position on boards of commissioners of police.

This re-states the position which the Provincial Government has taken over many, many years.

The great majority of the people we interviewed during our study favoured retaining the status quo with respect to the Provincial/Regional balance of appointments to the Board. Many of these felt strongly about this, urging on us that majority representation by Regional appointees would introduce an unhealthy politicization of the police function. Decisions, it was argued, would be made in the interests either of particular areas of the Region or of the particular political ambitions of individuals, rather than in the interests of the Region as a whole. Another argument which was made against majority Regional representation on the Board was that the workload involved in membership of the Board is so considerable that Regional Councillors, with other political commitments and priorities to attend to, do not have sufficient time to devote to the Board. The result of majority Regional representation on the Board, according to this view, would be a less effective governing authority for the police force. A final argument, made by one interviewee, was that Regio-

nal representatives would tend to back off the "tough" decisions which sometimes have to be made by a police board, because they are elected and have to face their constituents. As a result, the authority of the Board would be weakened.

By contrast, those who favoured majority Regional representation essentially made two arguments. The first, and most commonly articulated, was that since approximately 80% of the budget for the police force derives from Regionally raised taxes, majority Regional representation is the only democratically legitimate and acceptable composition for the Board. It will be recalled that Archer made this argument in his 1977 report.

This argument is most commonly related to the view that the Region does not have adequate control over the police force budget under the present arrangements, and that the only effective way of securing such control would be to have majority Regional representation on the Board. This latter view springs from the fact that under the Ontario Police Act (Section 14(3)), any unresolved dispute between the Board and the Council over the police force budget is to be determined by the Ontario Police Commission (a Provincially-appointed agency) after a hearing. Such a dispute arose between the Niagara Board and the Regional Council in 1981, and was duly submitted to the Ontario Police Commission, which decided in favour of the Board. This experience has evidently left some with the impression that the Regional Council could never "win" a dispute with the Board over the police budget, and therefore, ultimately, has no real control over it. Not surprisingly, these people are of the view that majority Regional representation on the Board is the only solution to this problem. We discuss the police budget process, and the roles of the Board and the Council in it, in further detail below.

The second major argument in favour of majority Regional representation on the Board, is that the Board as currently constituted does not "represent" the people of the Region. The argument takes two forms, the first of which really amounts to little more than a restatement, in different language, of the "democratic" argument just discussed. According to this version of the argument, true representation of the community can only derive from being locally elected, and therefore the Board can only truly represent the Regional community if a majority of its members are appointed from among the elected Regional Councillors.

The difficulty with this version of the argument is that most of those who advance it seem to have in mind that the Board would stay the same size (or perhaps be increased to 7 members), and still have a minority of non-elected, Provincially-appointed members. At best, then, the Region would have four representatives on the Board. It is difficult to see how increasing the locally elected membership by one or two members would achieve significantly increased representation of the Region as a whole (given that there are now 29 elected representatives on the

Regional Council)). Indeed, the only way such "true" representation could occur under such an arrangement would be if the Regional representatives on the Board were in some way bound to accurately reflect the views of the Council as a whole in their decision-making on the Board. And if this were the case, it is not easy to see why there would be a need for a Board at all (as opposed, for instance, to a committee of the Council). This, however, is the weaker of the two versions of the argument.

The second version of this argument is that the Board, as presently constituted, does not "represent" the Regional community in the sense that it is not sufficiently sensitive to the needs, or amenable to the demands, of various parts or sub-units (e.g. particular area municipalities) of the Region. This version of the argument, however, shares some of the same weakness as the other one. It is difficult to see how the problem of representation in this sense will be significantly improved by increasing the number of Regionally-appointed representatives on the Board from 2 to 3 (or 4).

Two things about the debate which has gone on in the Region over the composition of the Board seem particularly worthy of note. The first is that none of the suggestions which seem to have been put forward in the Region for changing the structure of police governance have proposed alternatives to the Board as a police governing authority; all the protagonists on both sides of the debate seem to assume that the solution to whatever problems they perceive will come from reforming the Board (by changing its composition, altering its procedures, etc.). We are led to wonder whether this reflects a resigned acceptance of the unlikelihood of more radical change being politically achievable, a genuine basic satisfaction with the concept of a Board as the governing authority, or simply a lack of awareness of the possible alternatives to the Board as a vehicle for police governance. We have no way of answering this question on the basis of the interviews we have undertaken. But it suggests to us that the debate over police governance in the Region might be considerably enriched, less simplistically polarised, and perhaps more productive of solutions which could be widely accepted, if it did not focus so exclusively on the two alternatives of (a) a Board with a majority of Provincially-appointed members and a minority of Regionally-chosen elected Councillors, and (b) a Board with a majority of Regionally-chosen elected Councillors and a minority of Provincially-appointed members.

One Regional Councillor with whom we spoke advocated a six-member Board, with equal Provincial and Regional representation on it. This Councillor was quoted in the press earlier this year as saying that under his proposal the Board would "have no choice then but to come up with a compromise; it will also stop that nonsense of us against them." As far as we can tell, this is the only alternative to either the status quo or majority Regional representation on the Board which has so far been proposed by any of the participants in this debate in the Region.

We wish only to point out here that there are alternative compositions which could be considered for the Board, and there are alternatives to having a Board at all.

The second observation we would have about this debate, is that the arguments put forward by both sides of the debate are chiefly notable because they are so weak. There is plenty of experience of police governance in other jurisdictions to illustrate the reality that the more dire consequences envisaged by the opponents of majority Regional control over the police governing authority need not occur, and can satisfactorily be guarded against, with this form of police governance. On the other hand, it is not hard to show either that majority Regional representation on the Board will not necessarily solve any of the real problems which its advocates are concerned to solve, or that those problems could be satisfactorily addressed even within a structure which includes a Board with a Provincially-appointed majority. Again, it is not easy to determine whether the weakness of the arguments put forward by the protagonists in this debate reflects the fact that those who advance them do not really feel very strongly about the issues in debate, or suggests that, although there may be strong feelings on the subject, the issues have just not been carefully enough thought through. Our interviews suggest to us the former; we had embarked upon our study expecting to find strongly expressed views on the composition of the Board in the Region, but have been surprised to find how little animus there seems to be on this subject.

Our overall impression of this debate is that the issue of majority Regional representation on the Board has assumed a somewhat symbolic character in the Region, whereby it has become uncoupled from the real concerns which exist over the quality and style of the Board's governance of the police force. Refocussing the debate towards more clearly identifying those concerns, and seeking viable solutions to them, rather than concentrating it so exclusively on the issue of who should control the majority of the appointments to the Board, would, we think, constitute a substantial and productive step forward.

## SIZE OF THE BOARD

Throughout its history, the Niagara Board has consisted of five members. In this respect it does not differ from the boards in other regions of the Province which have regional police forces, although the size of the Metropolitan Toronto Board has recently been increased from 5 to 7 members.

Clearly the intent in providing for the somewhat larger boards for the regional police forces (until 1984, single municipality police boards consisted of three members) was to allow for a greater degree of representation on these boards from different areas of their regions, but it is not clear that this has been achieved successfully. There is nothing in the legislation crea-

ting regional boards which requires their membership to be in any way geographically or demographically representative, and there does not seem to be any mechanism in place through which the two appointing authorities (the Province and the Regional Council) can collaborate towards this end in making their appointments. As we noted above, the current Niagara Board is in no way either geographically or demographically representative of the Region.

Growing concerns in recent years over the apparent unrepresentativeness of municipal and regional police boards in Ontario have led to calls for increases in their size. In 1983, the Police Act was amended to require that boards in municipalities having populations of 25,000 or more should be composed of five rather than three members. In addition to the 9 regional police forces and the Metropolitan Toronto force (all of which, until recently, have always had 5-member boards), there are now 21 municipalities in Ontario which are required to have 5-member boards by the 1983 amendment to the Police Act. That amendment, however, also provided that municipalities with populations of less than 25,000 may, by a resolution of council, adopt a 5-member board. We have not been able to ascertain how many of these optional 5-member boards currently exist in the Province. The same concerns over representativeness (especially with respect to ethnic minorities) appear to have motivated the recent increase in the size of the Metropolitan Toronto Board from 5 to 7 members.

Most of those whom we interviewed during this study felt that the size of the Niagara Board ought to be increased, at least to seven members. One person advocated a nine-member board and one recommended a six-member board. All but one of the current members of the Board expressed to us the view that the Board could beneficially be expanded to seven members.

Two principal reasons were advanced for increasing the size of the Board. The first was to improve the geographical representativeness of the Board, and the second (which was the reason given by most of the Board members themselves) was to reduce the workload on individual members of the Board.

With respect to the first of these reasons, it is obvious that the goal of increasing the geographical representativeness of the Board's membership would not be achieved by increasing the size of the Board unless this were accompanied by a firm commitment by both appointing authorities to use the increase in size for this purpose. Some agreement for effecting and maintaining such a commitment would need to be arrived at.

With respect to the second reason, it is apparent that sitting on the Board is regarded as a demanding job. This has particularly been the case in recent months, due to the unusual circumstances surrounding the resignation of the former Chief of Police in 1987 and the ensuing establishment of a public inquiry into the police force. Even without these extraordinary events, however, it is clear that the regular responsibilities of the

Board impose a substantial workload on its members. A significant portion of this workload derives from the licensing functions of the Board (see Section 124 of the Regional Municipality of Niagara Act, R.S.O. 1980, c. 438).

An increase in the size of the Board would allow a greater degree of specialization among Board members in handling its various responsibilities. For example, the Board currently strikes committees to deal with its licensing and collective bargaining responsibilities. With a larger Board it would be easier to strike additional committees to deal with such matters as handling public complaints against the police, and personnel, disciplinary and staffing matters. Some of the previous workload problems of the Board, however, are expected to be relieved as a result of the recent appointment of a Chief Administrative Officer within the force itself.

Another relevant aspect of the size of the Board is the requirement of Section 117(2) of the Regional Municipality of Niagara Act that "Three members of the Niagara Police Board, including a member appointed by the Regional Council, are necessary to form a quorum". With only two Regional representatives on the Board (one of whom, in addition to being a Board member and a Regional Councillor, is also the Mayor of one of the area municipalities), obtaining a quorum of the Board is not always a simple matter. Board members have suggested to us that an increase in the size of the Board, which would include an additional Regional representative, would go some way towards relieving this problem. Although there is no requirement that committees of the Board include a Regional representative in order to have a quorum, it is felt that this is a desirable goal which would also be facilitated by a larger Board.

## RESOURCES OF THE BOARD

Unlike many other municipal police governing authorities in Canada, the Niagara Board has the benefit of a 6-member full-time staff to assist it in its work. The work of four of these staff members is devoted more or less exclusively to servicing the licensing functions of the Board. The other two members of the staff, the Administrator and the Executive Confidential Secretary, service the Board's police governance functions.

The Board has its own budget, which is included within the police force's annual estimates. During the last five years, the Board's budget has increased by more than 50% (from \$219,126 in 1983/84 to \$334,669 in 1987/88). During the same period, the police force's operating budget increase by 29%, and its total budget (i.e. including capital expenditures) increased by 35%.

Most of the Board members whom we interviewed indicated that they thought that the Board's staff, access to outside expertise

(lawyers, consultants, accountants etc.), and budget are presently adequate for its purposes, although there was a recognition that the current inquiry into the police force may result in demands on the Board which will strain its resources. Others to whom we spoke did not express any concerns about the Board's staff or budget, but we suspect that this was a reflection of their lack of knowledge about these matters.

Board members indicated that the resources of the Region's staff are rarely drawn upon by the Board. In the case of legal advice, it was felt that the Region's legal department does not have the necessary expertise to deal with the kind of specialist legal issues on which the Board often needs advice. There appears to have been some reliance on Regional resources with respect to matters such as purchasing, employee benefits and financial accounting. However, with the appointment of a Chief Administrative Officer within the force who has some expertise in these areas, there is an expectation that the Board and the force will become more self-sufficient here also. We have more to say about this in our discussion of the budget process, below.

#### PROCEDURES OF THE BOARD

Within the usual bounds of administrative law (e.g. the need to observe natural justice when holding hearings, and to act fairly when making decisions which will affect individuals' livelihoods, etc.) the Board has great freedom to determine its own procedures. Section 34(2) of Regulation 791 under the Police Act requires the Board to hold "at least one regular meeting every three months", and the Police Act itself (Section 10(3)) provides that such meetings "shall be open to the public unless otherwise directed by the Board." No criteria for the exercise of this discretion to hold meetings in camera are spelled out in the Act or elsewhere. This lack of clear guidelines with respect to holding meetings in camera was, in fact, the subject of some criticism from a number of those whom we interviewed. We shall return to this subject in a moment, however.

The Board in fact holds regular meetings once a month. These meetings typically last about six hours. In recent months, up to 75% of the Board's meeting time has been held in camera, but we have been told that this is an atypically high percentage caused by the particular circumstances of the public inquiry which has been ordered into the force. Under more "normal" circumstances, we have been told, the "public"/in camera ratio is nearer 50%/50%.

In understanding the controversy which still exists over the in camera portions of the Board's meetings, it is important to appreciate that the current Board inherited a situation in which the Board had, for a long time, had a reputation for being unnecessarily "secretive". As the Archer Commission's emphasis on

this criticism of the Board (quoted above) makes very clear, this reputation for secrecy was one which had steadily grown during the 1970's, and which persisted well into the 1980's.

When the current Chairperson was appointed to the Board in 1986, she and others made past "secrecy" and future "openness" the subject of a major campaign with respect to the Board. It is clear that this campaign is widely perceived as having achieved considerable success. Many of our interviewees (and not just the Board members themselves) commented that the current Board is a great improvement over previously constituted Boards with respect to its openness and public accountability. Nevertheless, even those who acknowledged this progress often added that the Board still has a long way to go to satisfy their ideals of openness and accountability. The most common comment which was made to us in this regard related to the apparent absence of any clear guidelines with respect to what matters can properly justify in camera sessions. There is also, of course, the problem of how the implementation of such guidelines, were they to exist, could effectively be monitored, given that the public does not have access even to the point-form agenda of the in camera portions of the Board's meetings.

We were told by Board members that the criteria which are actually applied in determining what is discussed behind closed doors are that all matters concerning property, personnel matters, legal issues and advice, and "sensitive police matters" are discussed in camera. While we were not, of course, in a position to confirm (or question) the accuracy of this description of the Board's practice with respect to this matter, we were shown the confidential agenda of one in camera meeting of the Board which appeared to conform to the criteria described to us.

Before leaving this subject of in camera meetings, there are a few further observations we would wish to make about it. In the first place, most of those whom we interviewed felt that the Board does now apply appropriate principles in determining which aspects of its business require to be discussed in-camera. Some of those who made such assessments, however, candidly admitted to us that they did not have (and in some cases could not have) any detailed knowledge about this matter. Our overall impression on this issue is that while most people seem to think that the Board's commitment to more "openness" in its affairs is genuine, and that the current practices of the Board in this respect are by and large appropriate, the Board is nevertheless to some extent still "living down" its predecessors' reputation in this regard. That reputation, which for so long dominated public perceptions of the Board, continues to lurk in the public consciousness, and it seems likely that the current Board's commitment to openness will have to be continuously demonstrated for quite a while yet before the public is fully convinced that a permanent change in the way the Board conducts its affairs has indeed occurred.

In British Columbia, monitoring a Board's recourse to in ca-

mera sessions is a function of the Provincial Police Commission. Section 31 of the British Columbia Police Act sets out the criteria for holding board meetings in private. These are: (a) "a matter of public security will arise, and disclosure of the matter could reasonably be expected to seriously impair effective law enforcement"; or (b) "a financial or personal matter respecting a person will arise, and the person's interest in the matter outweighs the public's interest in the matter." The Section also requires the board, within seven days of holding an in camera session, to forward a copy of the minutes of that session to the Provincial Police Commission, together with a statement of the reasons for having held the meeting in private. The Provincial Police Commission is thus enabled to perform an auditing function with respect to boards' use of the in camera power. The Act also provides that in camera sessions of boards may only be held with respect to those particular matters which are specified by the Act as warranting such private discussion.

While the Ontario Police Commission could probably initiate some investigation and inquiry into a police board if it had received numerous complaints concerning its use of in camera powers (see Sections 6, 42(g) and 58), its authority with respect to boards of commissioners of police is far from clear under the existing provisions of the Act. A provision such as that just cited from the British Columbia Police Act would be much more effective in ensuring some accountability for the use by boards of their in camera power.

With one exception (to which we shall refer below), the Board's current commitment to openness and accountability in the conduct of its affairs can, we think, fairly be described as passive rather than active. The dates, times and locations of the Board's meetings are not publicly advertised, nor is the agenda for its meetings. Board members acknowledged to us that while the Board is definitely open to outside input into the conduct of its affairs, it rarely actively cultivates or solicits it. As Item 30 in Appendix "A" below makes clear, this relative passivity (which, it should be said, is by no means unique to this Board) is reflected in the typical attendance at the Board's meetings. The press and newsmedia are evidently the only people other than Board members and staff and police force personnel, who attend these meetings with any frequency. Many of our interviewees attributed this to a lack of public knowledge of, or interest in, the Board and its affairs. Unlike some (although by no means many) police boards, the Board does not include non-Board, non-police persons on any of its committees.

Under these circumstances, it would not be surprising to find that notwithstanding the Board's ostensible commitment to openness and accountability, its role and functions remain poorly understood by the public. Although we have not undertaken any public survey to verify this, the interviews which we undertook during this study have led us strongly to the belief that this is the case. To overcome public ignorance and misunderstandings about the Board, a more active and aggressive approach to "open-

ness and accountability" would undoubtedly be needed.

An interesting, even somewhat daring, model for pursuing such active openness and accountability, has been adopted over the years by the Public Security Council of the Montreal Urban Community (which is the governing authority for the M.U.C. Police Force). This governing authority a few years back adopted the practice of holding public forums once a year, which were widely advertised, and at which members of the public were encouraged to communicate to the Council their views about the police force, the service it offered, and how it was organized and run. The forums were televised and broadcast on a local cable T.V. network. While the forums provided some embarrassing moments for the Council as well as for the police force, they also offered an important opportunity for both of these bodies to "get their side across" to a wide and attentive audience. The potential "risks" to the force as a result of such exposure were thought to be more than offset by the strong public support which the police enjoy not only in Montreal, but elsewhere in Canada.

In Halton Region, a less daring, but no less important, approach to achieving greater public input into decision-making and policy-generation with respect to the police has been adopted in recent years. Substantial public surveys concerning a wide range of policing matters (especially focussed on the adequacy of police service to the community), have been undertaken on the initiative of the Chief of Police. Chief Harding who, before becoming chief of the Halton Regional force, was with the Peel Regional Police Force, is one of the more active exponents of "community policing" within the Canadian Association of Chiefs of Police. He has had the benefit of a board which has been receptive to his insistence that in order to do policing effectively, the police force must actively reach out to the community for constructive as well as critical input.

Underlying both of these approaches is the view that police governance and accountability, if they are to be well understood by the citizenry, must involve more than just handling public complaints against the police. In this regard, the strategy adopted by many police governing authorities, whereby the only aspect of their activities which is the subject of active publicity is the complaints process, must be regarded as well-intentioned but misconceived. It conveys a negative message not only about the police force, but also about the role of the governing authority in the governance of the force.

One area in which the present Niagara Board (and especially its Chairperson) has been quite actively "open" in recent months has been in its relations with the media. In fact, the Chairperson's readiness to "go public" on various issues by calling press conferences etc., was the subject of some criticism among those whom we interviewed. In particular, we learned that police force members have been unhappy that matters have become public in this way before the force itself has had sufficient opportunity to digest them and ready their response. We heard similar comments

with respect to the Board itself, with the suggestion that there have been occasions on which Board members (and the Board as a whole) have not had sufficient opportunity to consider their position on important issue before the glare of publicity is upon them.

As is well known, the last twelve months have been very difficult ones, both for the Board and the force. The Board has had to tread a difficult path between retaining the confidence of the force as a fair governing authority and one which will stand by it through hard times, and retaining the confidence of the public as a firm governing authority that will not allow malfeasance (or worse) to be covered up or remain uncorrected. Four of the five Board members during this period have been people who had relatively little experience on the Board, so it would not be at all surprising if some mistakes had been made in dealing with these difficult circumstances.

During the time we have had to conduct this study, we have not, of course, had sufficient exposure to the details of the situation in Niagara Region in recent months to be in a position to make any judgments about whether such mistakes have been made or, if they have, who should bear responsibility for them. In this area of public confidence and force morale, however, perceptions are possibly even more important than "facts" - a fact of life which can be hard to swallow for even the best of governing authorities.

In the coming months, as the public inquiry gets underway, this problem seems likely to become more difficult rather than less so. We certainly would not presume to give any advice to the Board as to how best to handle it. Achieving "openness and accountability" is not always a straightforward matter, and how one "goes public" is just as important a matter as "going public" at all. Few would argue with the Board's belief that "openness and accountability" are inherently worthwhile objectives which should be assiduously pursued. They are not an end in themselves, however, but an important means towards the ends of a better police service and better governance. If their achievement is at the expense of the morale of the police force, or of public confidence in the Board, it will have defeated the very ends the Board is supposed to serve.

Another aspect of the Board's role and procedures which has been the subject of considerable debate (both in the Niagara Region and in other jurisdictions (see Stenning, 1981: 58-64)) is the Board's adjudicative role with respect to internal disciplinary matters and public complaints against the police force. There seem to be three main concerns here. First there is a concern over the amount of the Board's time these matters consume, and the burden this places on individual Board members. In this connection, it must be remembered that the Board also performs an adjudicative role with respect to its licensing responsibilities under Section 124 of the Regional Municipality of Niagara Act.

The second concern in this area relates to the fact that there is no longer any requirement that any Board member must have legal expertise. Previously, one member of the Board had to be a County Court Judge. While we did not hear specific complaints about the present Board's competence in this area (one of its members does in fact have legal qualifications), the concern is that there is nothing to guarantee such competence in this or any future Board.

The third concern, which is related to the second, and which is undoubtedly the most important, has to do with the appearance of the Board's impartiality in performing its adjudicative functions, and the compatibility of these functions with its other governance functions. The concern expressed here is that members of the police force view the Board as too close to police management to be able to adjudicate a dispute between senior officers and line personnel impartially (or with sufficient appearance of impartiality). Similarly, members of the public who may have complaints against the police force or its members may regard the Board as too close to the police force as a whole (and particularly its senior management) to be able to adjudicate such complaints impartially, or with sufficient appearance of impartiality. Given the little exposure which both line police officers and members of the general public have to the affairs of the Board (see Item 30 in Appendix "A", below), such perceptions are quite understandable.

Some of the Board members indicated to us that they are not especially comfortable with their adjudicative role, for all of the three reasons just discussed. There are, of course, alternatives to the Board's continued assumption of this role (especially with respect to public complaints against the police), which have been discussed within the Region in recent years, and which were positively advocated by some of those whom we interviewed. The most common suggestion which was made in this regard was that the Region opt into the public complaints procedure originally established to deal with public complaints against the Metropolitan Toronto Police Force, (and recently made available, on request, to other municipalities in the Province), or alternatively establish its own comparable, "independent" (of the Board and the force) mechanism for adjudicating public complaints against the force.

#### RELATIONSHIP BETWEEN THE BOARD AND THE REGIONAL COUNCIL

The relationships between the Board and the other political bodies within the Region are the most controversial aspect of its role and accountability. It is our impression that it is only quite recently, as a result of some public confrontations between them, that these relationships have begun to become clearer in the minds of public officials, if not of the public more general-

ly. Even now, they are far from being to everyones satisfaction.

Section 2 of the Police Act provides that:

2 (1) Every city and town is responsible for the policing of and maintenance of law and order in the municipality and for providing and maintaining an adequate police force in accordance with the police needs of the municipality.

Section 118 of the Regional Municipality of Niagara Act provides that the Region shall be "deemed to be a city" for the purposes of the Police Act, and that the Police Act, except Section 70 (which authorises the appointment of municipal by-law enforcement officers) does not apply to any area municipality within the Region. The responsibility for policing and the maintenance of law and order in the Region, under Section 2 of the Police Act, therefore, now lies with the Region and not with the area municipalities.

Section 17 of the Police Act, however, provides that where a municipality is required to have a board of police commissioners (as the Region is required to do by Section 8 of the Police Act and Section 117 of the Regional Municipality of Niagara Act),

17 (1) Notwithstanding section 2, the board is responsible for the policing and maintenance of law and order in the municipality and the members of the police force are subject to the government of the board and shall obey its lawful directions. [our emphasis]

Thus, it is the **Board** and **not** the Regional Council which, under the Police Act, is responsible for policing, the maintenance of law and order and the government of the regional police force. Furthermore, Section 14 of the Police Act provides that it is for the Board, not the Regional Council, to determine what size of police force will be adequate for the policing of the Region, and what accommodation, arms, equipment, clothing and "other things" will be adequate to enable the police force to perform its function effectively. The Board is required to draw up an annual budget on the basis of these determinations, and submit it to the Regional Council "for its consideration and approval." If the Council disagrees with the Board's estimates of what is required for the police force, subsection 14(3) provides that it may appeal to the Ontario Police Commission which "shall determine the question after a hearing." Such an appeal was taken once by the Region in 1981. The Ontario Police Commission ruled in favour of the Board.

It will be clear from this analysis that, with the exception of the right of appeal to the Ontario Police Commission under Section 14 of the Police Act, the Board is recognised as having exclusive responsibility for all of the major decisions in the governance of the police force; under the Police Act, the Board

is also responsible for negotiating the collective agreements with the force. In recent months, the Board has taken a firm position with respect to its role under the Police Act and its independence from Regional Council. It has thus insisted that while it recognises a moral accountability to the Regional Council, and while it will listen to whatever concerns the Council may wish to express to it regarding the police force and its governance, it will not countenance any attempt by the Council to control, direct or interfere with its decision-making with respect to the force. For example, when the Region asked earlier this year that the police force participate in an internal budget review committee of the regional administration, at which all of the Departments of the Region were required to discuss and review their budgets prior to their submission to Council (or, in the case of the police budget, to the Board and then to the Council), the force and the Board declined to do so. They stated that they did not see this as a useful or justifiable exercise from the point of view of the force or the board, that they felt it would be a waste of valuable police time, and that it would constitute unwanted interference, by the Region, in the force's and the Board's established budget process. The Board conceded that if the Region wished to submit the police budget to an internal Regional review committee after it had been submitted to Council by the Board, it was free to do so, but that neither the police force nor the Board could be required to participate in such a review. The Board insisted that its only responsibility was to submit the budget to Council.

While the position which the Board has taken on this matter is undoubtedly legally correct in terms of the provisions of the Police Act, it is not hard to see why it has engendered consternation among some Regional Councillors. The main reason for this, of course, is that the Council currently raises, through its municipal taxes, approximately 83% of the moneys for the police budget (the other 17% being paid for through a grant from the Provincial Treasury). Since the police budget now stands at just under \$42 million, has grown by 35% during the last five years, and represents about 30% of the Region's total budget, it is a matter of no small consequence for the Region. As many see it, it amounts to the Council having to pay the piper without any real authority to call the tune.

An attempt by the Regional Council to dictate to the Board the criteria it should apply in determining when to hold portions of its meetings in camera, was similarly rebuffed in firm language by the then Chairman of the Board, who was also a member of the Regional Council (see address delivered to the Regional Council by Councillor William Dickson, 19th June, 1986). The Board appears now, however, to have adopted the criteria which Council was urging upon it.

It was, of course, the frustration which some Regional Councillors felt in being confronted with these situations which led to the Council vote, in January of this year, calling on the Provincial Government to legislate a majority Regionally-appointed

ted membership for the Board. The thinking seemed to be that since the law does not permit effective control over the Board from outside, the only solution is to achieve control within the Board itself. As we noted above, the Provincial Solicitor General rejected that demand in a letter to the Region three months later.

That this difficulty is not unique to the Niagara Region is amply illustrated by similar confrontations in other jurisdictions. Thus, in May 1988 the Halton Regional Council, expressing similar frustration over its inability to influence the police force budget, called on the Provincial Government to disband the regional police board and turn the governance of the police force over to a committee of the Regional Council ("Region seeks police control", Toronto Globe and Mail, 19th May, 1988, p.A3).

Part of the difficulty which the Region faces in this controversy derives from the constitutional reality in Canada, wherein municipalities (including regions like Niagara Region) are not recognized as having any independent constitutional status. Municipal jurisdiction and authority derives solely from the provisions of such Provincial legislation as the Municipal Act, the Regional municipality of Niagara Act and the Police Act, which can be changed at any time by a vote in the Provincial Legislature. Municipalities, therefore, are said to be "creatures of Provincial legislation", with no independent constitutional status. This means, of course, that if a municipality or region is unhappy with the authority (or lack of it) which it has over a local service like the police, all it can do in practice is lobby the Provincial Government to change the relevant legislation.

There has been a great deal of lobbying of this kind, not only from Niagara Region, but from other municipalities and regions elsewhere in Ontario. The main concern has been the lack of authority which the medium-sized and larger municipalities have over the governance of their police forces (for a review, see Stenning, 1981: Part III, Ch. 6). None of this lobbying, however, has succeeded in achieving more substantial authority in this area for municipal and regional councils, as opposed to the police boards required by the Police Act.

Despite this lack of political and legislative success, real changes have occurred in recent years in the relationships between police boards and their municipal councils. Most prominent of these has been the increased detail of the police budgets which boards submit to their councils. These budgets, which at one time used to be pejoratively referred to as "three-liners" (salaries, equipment, total), and which (as one former Chairman of the Niagara Board once pointed out to the Regional Council) used to be literally "mailed in" to councils by some boards without any discussion, are now much more substantial and detailed documents in many of the larger municipalities. These give municipal councils a real opportunity to understand and question the allocations of funds within police forces. The annual budget for the Niagara Regional Police Force has followed this trend.

Nevertheless, when it comes to the "bottom line", the Ontario legislation makes it clear that the municipal or regional council has no power to change the budget without either the acquiescence of the board or the approval of the Ontario Police Commission (in the event of a successful appeal). As far as we have been able to learn, no municipality has ever successfully appealed a police budget to the Ontario Police Commission.

Ontario and British Columbia (which has a right of appeal to the Provincial Police Commission similar to that in Ontario) appear to be the only two jurisdictions in the common law world (and certainly in Canada) which thus deny to municipalities the ultimate authority to determine the size of their police force budgets. And even in Ontario, this is only the case with 73 of the 124 regional and municipal police forces in the Province (the others being governed directly by their municipal councils).

This is not to suggest, of course, that in many other jurisdictions there are not avenues through which central authorities can exert pressure on local governing authorities which are thought not to be adequately funding their police forces. In Britain, for instance, the central government grant to a municipality for policing (which amounts to 50% of costs) can be withheld in the event of an adverse inspection report of Her Majesty's (centrally-appointed and accountable) Inspector of Constabulary. In many Canadian jurisdictions (including Ontario), the Provinces reserve to themselves (usually through their provincial police commissions and/or provincial police forces) the right to take over the policing of a municipality which persists in not providing adequate policing for itself, and charge the expenses incurred in doing so to the municipality. This drastic measure is one which has been invoked very rarely in Canada. The mere possibility of it seems to be regarded as sufficient in most provinces to ensure that municipalities will live up to their minimum obligations to provide adequate policing services within their boundaries.

One of the biggest problems which surrounds this whole area, however, is the fact that no jurisdiction, Ontario included, has yet come up with comprehensive and agreed standards on what constitutes "adequate" policing for a municipality. The official whom we interviewed at the Ontario Police Commission candidly acknowledged to us that such standards do not currently exist in Ontario. Under these circumstances, the perceived objectivity of the person or body who has the final say on whether a municipal police budget and the services which it will support are "adequate" is of critical importance. The fact that, according to our interviewees, the Ontario Police Commission is not viewed by a great many Regional Councillors in Niagara as objective and impartial in this regard (one member of Council referred to it as a "Kangaroo Court"), merely adds to the sense of grievance over the existing situation.

The sources of the concerns expressed by some Regional Councillors over the appeal process to the Ontario Police Commis-

sion, are evident from reading the decision of the sole Commissioner who presided over the 1981 hearing into the Niagara Region's police budget (Ontario Police Commission, 1981). In the first place, it is clear from the report of the decision that the onus was on the Regional Council to convince the Commissioner that the proposed budget was unreasonable. Thus, he wrote:

The Board has the responsibility of trying to maintain a police force that is as adequate and efficient as is reasonably possible. Where there is no evidence indicating an abuse of that responsibility, and where there is no evidence indicating the municipality's inability to pay for the force, the Board's request for funding should be met by the municipality. (Ibid.: 27)

Secondly, there was much emphasis in the decision on the issue of whether the police board had given the Council adequate forewarning of the increases it was proposing for the police budget, or had in some way misled the Council about these. The Commissioner's consistent findings that Council had been forewarned, and had not been misled, seemed to lead him to the conclusion that the proposed budget must therefore be "reasonable".

Thirdly, and most importantly, the decision makes it clear that the Commissioner did not attempt to apply any objective standards of "reasonableness" in assessing the proposed budget. Although he referred specifically (at p. 9 of the decision) to the criteria employed by the Chief of Police in determining the adequacy of the force, he did not question the application of them by the Chief, comment on their appropriateness, or indicate whether they were the same as those which the Commission itself applies in assessing police forces. He noted too (at p. 24) that the author of the Commission's own assessment of the Niagara force in 1980 had not been cross-examined at the hearing "as to the validity of any findings or recommendations of the report."

Finally, the Commissioner's decision was based primarily on an assessment of the police budget itself, and only crudely and superficially considered the other fiscal demands on the Region at the time or the comparability of the Niagara Region's police budget with budgets of other regional police forces. Given the distinctiveness of most of the regions in the Province, such crude comparisons may be of doubtful utility.

Even among those who do not support the call for majority Regional representation on the Board, the Board's position with respect to its relationship to the Regional administration and Council on budgetary and other matters, together with the experience of the 1981 budget appeal, appears to have led in some cases to a posture of almost complete withdrawal of interest and responsibility for the police budget and the governance of policing in the Region (see e.g. "Police board can spend what it likes - Dick", St. Catharines Standard, February 27th, 1988). While this kind of reaction may be understandable for elected

officials who are seeking to avoid being held responsible by their constituents for a major budget item over which they have no ultimate control, it can hardly be regarded as a desirable outcome of the debate over this issue.

The availability of other means through which the Province could exert pressure on the Region to ensure that it provides an adequate police force with an adequate budget, makes it clear that the justification for the existing legal arrangements with respect to the police budget does not derive from a need to maintain minimum standards. Rather, the justification (which has never been clearly articulated and debated by the Government of Ontario as far as we have been able to determine) seems to be couched in terms of the fear of improper local political influence over the operations of the police force. For reasons which we have already set out above, we do not think that this concern over political interference withstands close scrutiny in the late 1980's. Even if there is a valid fear of improper political interference in the affairs of the police force by a locally elected Regional Council or its members (and we concede that there may well be), there are other much more direct, appropriate and probably more effective ways of guarding against this than by denying the local body ultimate authority with respect to the budget of which it is responsible for raising over 80%. It seems hard to believe that all the other jurisdictions in the world which permit this are mistaken in this view.

It is clear from our interviews that the budget process constitutes the major source of interaction between the Board and the Regional government. Research on the police budget process in Canadian municipalities shows an enormous diversity of practices, in which the involvement both of municipal administrative staff and of municipal politicians in the preparation and review of budgets varies from being very extensive to virtual tokenism (see Hann *et al.*, 1985: 59-71, for a review). It is clear from our interviews, that the procedures followed in Niagara Region would place the Region very much on the "low involvement" end of the scale, both in terms of the administration's involvement and in terms of the Council's involvement, although less so for the latter.

Our interviews made it clear that apart from providing some assistance with respect to technical matters of common interest (such as workers' compensation claims, costs of insurance, supplies, etc), the Regional staff's involvement in the preparation of the budget is minimal. Outside the budget process, such contact is evidently no more substantial, occurring mostly with the Region's finance and personnel departments. The Board hires outside lawyers for almost all of the legal advice it needs, believing that the Region's legal department does not have the necessary specialised legal expertise to be able to be of much assistance to the Board.

There appears to be a growing (although in some cases a grudging) acceptance among Regional Councillors of the situation

in which the Council is legally placed with respect to the police force, its budget, and the Board. This acceptance seems to have accompanied an increasing respect for the current Board as a responsible governing authority for the police force which is genuinely committed, to the extent that it is practicable in police governance, to openness and accountability.

## RELATIONSHIPS BETWEEN THE BOARD AND AREA MUNICIPALITIES

It will be clear from our earlier description of the current legal arrangements for police governance in the Region, that the area municipalities have been legislatively relieved of any responsibility for, and formal influence over, policing in the Region. From our interviews it is also clear that not all area municipal councillors in the Region have either fully understood or fully accepted this situation. Since the maintenance of peace and order in the community has for so many centuries been regarded as the very core of the function of governments, it is perhaps not surprising that some elected politicians and some local constituents have difficulty in appreciating the idea of an elected government which does not have responsibilities in this area.

The Board recognises that even though area municipalities do not have formal responsibilities for, and control over, policing (except with respect to the enforcement of their own by-laws), there is still a need for communication and accountability at this level with respect to policing matters. The Board's approach to achieving this has been to encourage it at the "staff" level (i.e. between the local administration and the police force), but to try to keep it "out of the political arena" (i.e. discourage matters from being aired in municipal council meetings). In addition, the Board has occasionally held its meetings in cities other than St. Catharines (Welland and Niagara Falls), in order to have a more visible presence in different areas of the Region. We were told by the Chairperson of the Board that she had approached every mayor in the Region with the suggestion that the Board meet with one representative from the municipality three or four times a year to provide an opportunity for the communication of any local concerns about policing to the Board. Apparently all but two of the mayors declined this offer, so it was never proposed to the Board for adoption.

There is no doubt from our interviews that some municipalities feel that the regionalization of policing in Niagara has resulted in a less sensitive, more impersonal system of policing for their areas. The City of Thorold, in particular, has expressed great concern that it is policed "piecemeal" out of three separate Divisions of the Regional Police Force, and has no detachment building within its boundaries. Until the recent upgrading of the force's computer systems, it was impossible even to obtain composite crime statistics for the city from the force.

We were told that some police officers who patrol the city, being from other parts of the Region, have little or no knowledge of it. The quality of policing, and the sensitivity of the police force to the particular concerns and needs of the city, are regarded as having diminished.

While this is perhaps one of the more extreme examples of the kinds of problems regionalization of policing creates from the perspective of sub-units of the Region, there is no doubt from the meagre literature on the subject, that this kind of local reaction to regionalisation of policing is not uncommon (Loreto, 1984).

While our interviews revealed that there are concerns over the ability of area municipalities to influence the quality of policing in their areas, they yielded no clear solutions to these problems. Rather, it seems to be largely accepted by area municipalities that they no longer have a direct voice in decisions affecting policing in their areas, and that therefore the responsibility now lies with the police force and the Board to reach out to these communities and address their concerns. Several of our interviewees expressed the view that the Board is not currently active enough in doing this.

In England, where regionalization has now been in effect for almost 25 years, police forces are now required (by the Police and Criminal Evidence Act of 1984) to establish local consultative committees (usually at the level of a police sub-division) which provide a regular forum through which local concerns can be communicated to the police force and the police force's policies and procedures can be more directly explained to local citizens (Morgan & Maggs, 1985). This requirement was introduced as a result of the recommendations of the inquiry by Lord Scarman into the Brixton riots of 1981 (Scarman, 1981).

While it is yet too early to assess the impact of the introduction of these consultative committees in England, preliminary evaluations of them suggest that they may be having some positive effect in terms of making it easier for localised voices to be heard within a system of regionalized policing, as a result of which the formal structures for governance of the police are more widely accepted (Morgan, 1988). Some variant on the English consultative committee might be worthy of consideration as a means of bridging the gap between the area municipalities and what, to some, may seem a rather remote governing structure for the force.

### PART 3: THE ONTARIO POLICE COMMISSION

At the time legislation to establish the Ontario Police Commission was being debated in the Ontario Legislature in December 1961, the then Premier of Ontario, the Hon. John Robarts, announced to the House that:

The Commission is designed to be completely independent of any control by any department of government - along with its obligation to report yearly to the Attorney General, to the Lieutenant Governor in Council and to this Assembly.

(Ontario, Legislative Debates, 26th Legislative Assembly, 3rd Session, at p.284 (11th December, 1961))

The idea was to have a body which would be a source of independent advice and inquiry with respect to policing matters in the Province. By being ostensibly independent both of the Government and of the police forces and their governing authorities, it was thought that the Commission's advice would enjoy great credibility. The first person to be appointed as Chairman of the Commission in 1962 was a County Court Judge.

While the Commission initially reported through the Attorney General, with the Provincial Government re-organization which occurred in 1972, responsibility for the Commission was transferred to the new Solicitor General. Mr. Robarts' assurances notwithstanding, the Commission now appears on the organization chart of the Ministry of the Solicitor General (see Ontario, Ministry of the Solicitor General, 1986: IV).

The Commission was given a broad range of functions. These are now set out in Section 42 of the Ontario Police Act, a copy of which is reproduced in Appendix "C" below. Broadly, however, its functions may be divided into five main categories:

1. Technical Services - these include the provision of assistance to police forces with respect to such matters as training (the O.P.C. runs the Ontario Police College), applications of technology to policing, information services, collation of criminal and other relevant statistics for the entire Province, etc. The Commission also co-ordinates the Criminal Intelligence Service of Ontario, the services of which are available to police forces throughout the Province.
2. Advisory Services (recently re-named Inspectorate Services, but apparently its functions have not significantly changed) - a team of Advisors (all retired or seconded police officers of

senior rank) visit police forces throughout the Province, and provide advice to Chiefs of Police and police governing authorities on all aspects of police organization, management, deployment, budgeting, personnel selection and promotion procedures, etc.

3. Investigations and inquiries - the Commission has substantial authority to conduct investigations and inquiries into "the conduct of or the performance of duties by any chief of police, other police officer, constable, special constable or by-law enforcement officer, the administration of any police force, the system of policing any municipality, and the police needs of any municipality" (Section 58 of the Police Act). Such investigations and inquiries may be initiated by the council of a municipality, the Solicitor General or the Commission itself.
4. Appellate jurisdiction - the Commission hears appeals from disciplinary decisions of Chiefs of Police and municipal police governing authorities. It also offers an appellate service with respect to the disposition of public complaints against the police; this, however, is a non-statutory "voluntary" scheme. The Commission hears appeals from disputes between boards of police commissioners and their municipal or regional councils over their police budgets.
5. Regulation of use of equipment by police - under Section 42(2) of the Police Act, the Commission has authority, with the approval of the Solicitor General, to "regulate or prohibit the use of any equipment by a police force in Ontario or its members".

The Commission itself now consists of between three and nine members, although at the time of writing it is experiencing a major revamp and only one person (the new Chairman, who is a former Crown Attorney and Director of the Ontario Police College) holds an appointment to the Commission. The Commission has been without a Chairman for the past 18 months.

The Commission presently has a staff of 84, the great majority of whom are employed in the technical services area of the Commission's functions. On the Advisory/Inspectorate Services side (which is the part of the Commission which has the most ongoing direct contact with police forces and their governing authorities, the Commission has an authorized complement of 6 "Service Officers", who are all former senior police officers. We were told, however, that the Commission almost never has had its full complement of the Service Officers at any one time. At

present, there are four. In addition to being responsible for the Commission's advisory and inspectorial functions, these officers also undertake any investigations which the Commission requires. In 1985-86, the Commission (not including the Ontario Police College) had a budget of just under \$5 million (Ontario, Ministry of the Solicitor General, 1986: Inside Back Cover).

It is important to appreciate that the Commission has always been conceived of primarily as an **advisory** rather than a directive body. While there are exceptions to this (e.g. its appellate jurisdiction, and its power to request the O.P.P. to take over the policing of an inadequately policed municipality), in general the implementation of any conclusions which the Commission may reach, or recommendations it may make as a result of assessments, investigations or inquiries, is the responsibility of others. These include the Solicitor General, municipal police governing authorities, and chiefs of police.

Our interviews indicate that this aspect of the Commission's mandate is neither well understood nor very well accepted by many of those to whom we spoke. Some urged that the Commission should have much more authority to **impose** standards on police forces and police governing authorities. One person suggested that the Board should be directly accountable to the Commission, and should be "inspected" by it regularly.

This is certainly not the case at present, and would run counter to the whole philosophy which underlay the Commission's original creation. According to this philosophy, the responsibility for municipal policing lies first and foremost with the municipality or, if there is a board of police commissioners, with the board. The Commission's function is to provide assistance, advice and services to the force and the board, not direction to them. If the Commission discovers deficiencies within the police force, or in the manner in which it is managed or governed, it is the responsibility of the chief and the governing authority to correct these. If they fail to do so, the responsibility for taking corrective measures usually lies with the politically accountable Solicitor General rather than with the supposedly independent Commission. Most importantly, the Commission does not have any authority to give directions of any kind to a board of police commissioners.

Indeed, as we noted above, the Commission's jurisdiction with respect to boards is somewhat unclear. While Section 58 of the Police Act, for instance, provides that the Commission can investigate the "administration of any police force", it is by no means clear that this implies authority to investigate the activities of a force's governing authority (rather than its internal management).

It is clear that during recent years, the Commission has had considerable contact both with the Niagara Regional Police Force and with the Board, although we were surprised to learn that the Commission apparently does not keep a single file in which all

these contacts are recorded, and was therefore unable to accommodate our request for a complete account of them for the last five years. We have learned from other sources, however, that since 1980 at least the following contacts have occurred:

- 1980 - Commission staff undertook a general assessment of the force, at the request of the Board, and submitted a report which included 23 recommendations
- 1981 - Commission held a hearing to resolve a dispute between the Board and the Regional Council over the police force budget. The Commission endorsed the budget proposed by the Board.
- 1982 - A further assessment resulted in a report which included 18 recommendations
- 1984 - Commission staff investigated allegations of harassment and other wrongdoings by members of the police force
- 1985 - Commission staff undertook a further assessment of the police force

We understand that since charges were laid against the former chief of police in February of 1987, and calls for a public inquiry into the police force began to be made, the Commission has had no further direct dealings with the force or the Board, although it is understood that the Vice-Chairman of the Commission did make one visit to the Board, accompanied by the head of the Inspectorate Service.

Three major issues with respect to the role of the Ontario Police Commission surfaced during our interviews. The first of these relates to the question of standards for municipal policing and municipal police governance. As we noted above, there are currently no such clearly established and agreed upon standards. The Commission's Service Officers, in undertaking inspections and assessments of police forces, now use a standard protocol to guide them in this task. But while this ensures that they all look at the same sorts of things when they inspect police forces, it does not contain clear standards against which the performance of forces, let alone governing authorities, can be measured.

Many of our interviewees (including the police force representatives) insisted that the development of such standards is a vital pre-condition for greater effectiveness and credibility for the Commission's advisory and inspectorial services. The Commission evidently agrees, and has struck a Professional Standards Committee, composed of representatives of the Commission, the Ontario Association of Chiefs of Police, the Municipal Police Authorities and the Ontario Police Association, which is to work towards the development of such standards. At the time of his

appointment recently, the new Chairman of the Commission indicated that strengthening the supervisory role of the Commission vis-a-vis municipal police forces would be an immediate priority of the Commission ("Stiffer police scrutiny pledged", Toronto Globe & Mail, 16th July, 1988, p.A4).

The other two issues which were raised by our interviewees are related, and concern the perceived independence, objectivity and impartiality of the Commission. Most important of these is the perception that the vaunted independence of the Commission from the Provincial Government does not exist. It is viewed as a "political" body which is incapable of fulfilling its mandate to provide "independent" advice and assistance to municipal police forces and boards.

While "independence" is, of course, a difficult attribute to measure convincingly or with accuracy, there does seem to be considerable evidence which is consistent with this criticism. The commission's offices have for some years now been located within the same building as the Ministry of the Solicitor General, and Departmental supervision and control over the Commission's affairs is evidently substantial. The fact that in recent months the Commission has been left without either a Chairman or a Vice-Chairman adds to this perception that the Commission is not regarded by the Ministry as an independent body. Whatever may be the reality of the Commission's independence, however, it is clear that in the minds of many people in the Region, it is not perceived to be independent. In this area, of course, perception is as important an aspect of reality as "fact".

The third issue concerns the objectivity of the Commission in the performance of its functions. There are two aspects to this, both of which are "old chestnuts" in the literature on these provincial police commissions (see e.g. Stenning, 1981: Part II). The first concerns the fact that those who are responsible for doing the assessments of police forces, and investigations of allegations against police forces, are themselves all former senior police officers who may retain loyalties to the "police community" which prevent them from being totally objective and vigorous in their assessments and investigations. Of course, the argument in favour of having former police officers perform this role is precisely that they "know the ropes", are trained investigators and police administrators, and will not easily be "hoodwinked" by other police officers. Thus, what are seen by some as the very strengths of these officers, are seen by others as their weakness.

There seems to be no easy solution to this concern, although in defence of the existing arrangements it has been pointed out that every assessment and investigation report submitted by these officers is considered and reviewed by the Commission itself before being released to the police force concerned and its governing authority. This "safeguard" against "lenient" treatment of police forces by former police officers, however, is unlikely to satisfy the sceptics.

The second aspect of this third concern is more structural. The concern here is that some of the functions of the Commission are incompatible with each other, such that the Commission can easily end up being seen as a judge in its own cause. The alleged incompatibility of the Commission's advisory/inspectorial functions with its investigative/inquiry/appellate (quasi-judicial) functions is particularly cited in this regard. The point here can be illustrated by considering the Commission's role in resolving disputes between boards and councils over police budgets. As happened in the case of the Niagara force in 1980-81, the Commission may find itself undertaking an assessment of the force, on the basis of which the force's budget is drawn up and approved by the board. If the council disagrees with the budget, its only recourse is then to appeal to the very body whose advice has been followed in drawing up the budget. Under these circumstances, it is not surprising that the Commission is viewed by some Councillors as not being an objective, impartial arbiter of the dispute; rather, it is seen as a judge of its own cause, and the appeal process is viewed as a sham.

Similar concerns can arise over the compatibility of the Commission's advisory functions with its investigation/inquiry and appellate roles. These concerns are perhaps nowhere more clearly illustrated than in the so-called "Brown Affair" involving the Waterloo Regional Police Force from the late 1970's onwards (for an account of this, see Stenning, 1981: Part II, 80-88).

From recent statements by the new Chairman of the Commission, it is clear that the Commission itself recognizes that there may be a problem of actual or perceived conflict or incompatibility between its various functions, thus lending some institutional credibility to the concerns expressed to us by some of those whom we interviewed in the Niagara Region. At the time of his appointment, the new Chairman was quoted in the press as having re-iterated the Solicitor General's commitment to establish a greater separation between the Commission's advisory and quasi-judicial functions ("Stiffer police scrutiny pledged", Toronto Globe & Mail, 16th July, 1988, p. A4). Exactly what restructuring within the Commission is being proposed to accomplish this, however, has not yet been disclosed.

#### PART 4: CONCLUSIONS

Our brief review of the history of the police board concept indicates that this institution was designed primarily to achieve a delicate balancing of local and more central interests in the governance of municipal police forces. The concept appears to have envisaged the continuance of the responsibility for municipal policing as a local responsibility, but that its exercise should be subject to a certain degree of provincial input, oversight and corrective authority to ensure that minimum and equal standards of policing are maintained throughout the Province. The principal instruments for achieving the latter in recent years have been the Provincial appointees on local police boards, the Ontario Police Commission, and the Provincial Ministries of the Attorney General and Solicitor General.

There are perceptions in the Region, however, that this delicate balance is not being achieved satisfactorily by the present arrangements for the governance of the police force. On the one hand, critics argue that there can be no effective local responsibility for the Regional police force because there is no effective local control over it. The controversy over the budget process is clearly the main, but not exclusive, focus of this criticism. On the other hand, critics complain that there is no effective Provincial oversight, and that Provincial input into decision-making in this area is irresponsible, first because it is not based on adequately established standards, and second because it is not matched by fiscal responsibility.

Alongside these criticisms, however, is a recognition on the part of many that the current Board has made great strides in increasing the accountability and visibility of the process of police governance in the Region, and continues to demonstrate a genuine commitment to these goals. But while this progress is applauded even by the Board's critics, there is a conviction on the part of many of them that this kind of "voluntary" openness and accountability is not sufficient. Those who take this view do so on two grounds.

First, they argue that "voluntary" openness and accountability cannot be trusted in the long run, since it can just as easily be diminished or abandoned altogether by a future Board, with no effective recourse for the Region.

Secondly, they argue that what is really needed is a return to the traditional principles of local responsibility coupled with provincial input, oversight and corrective authority. They propose that arrangements should be institutionalised which will effectively adhere to these principles.

The specific proposals for reform which have been voiced within the Region, however, point in two opposite directions. On the one hand, are those who advocate an enlarged Board, with much

the same authority and status as the existing Board, but with majority Regional representation in its membership. The typical proposal envisages a seven-member Board, consisting of four Regional Councillors appointed by Council and three members appointed by the Province. Despite the obvious symbolic significance of such a change, however, it is far from clear whether it would offer substantial solutions to the various problems which have been associated with the existing arrangements. We have discussed the reasons for our scepticism in this regard in the body of our report.

On the other hand, are those who, in various ways, advocate the very opposite - that the Region should be relieved of responsibility for policing entirely, and that this should become the exclusive responsibility of the Province (which should, of course, also pay for it). Adherents of this view argue that the Board of Police Commissioners should be answerable directly to an Ontario Police Commission which would have greatly expanded authority and powers. Such proposals are typically not articulated in detail, and in many cases seem to be more a product of their proponents' exasperation with the existing arrangements, than of a genuine commitment to their merits.

Two rather worrying features characterise much of both sides of the debate over police governance in the Region. In the first place, despite the high profile which this topic has achieved in recent years in the Region, there remains a good deal of misinformation and misunderstanding about the existing arrangements for police governance. We hope that this report may make some contribution toward reducing this problem.

Secondly, among those who are well informed about the existing arrangements and the issues they raise, there appears to be a good deal of pessimism about the prospects of substantial changes or improvements occurring within the foreseeable future. The apparent reluctance of provincial authorities to become substantially engaged in the debate over the issues which are seen as important by people in the Region, seems to have contributed to this pessimism, although the recent appointment of a new Chairman of the Ontario Police Commission is viewed by some as signalling a renewed commitment on the part of the Province.

We conclude our report by setting out, in summary form, some options for future change which, we hope, may facilitate a more informed debate about the future of police governance in the Region.

## **SOME POSSIBLE OPTIONS FOR THE FUTURE**

### Composition of the governing authority

The realistic options here seem to range from leaving things

as they are, to completely abolishing the Board and turning the governance of the police force over to a committee of the Regional Council. Between these two poles, the following are some of the options which might be considered:

- A. A board composed of an equal number of provincially appointed and locally elected representatives.
- B. A board composed of a minority of provincial appointees and a majority of regionally appointed representatives, all (or a majority) of whom are non-elected citizen appointees.
- C. A board composed of a minority of provincial appointees and a majority of regionally appointed representatives, all (or a majority) of whom are persons who hold local elected offices.
- D. A board composed of a minority of provincial appointees and a majority of regionally appointed Regional Councillors.
- E. A board composed of a minority of provincial appointees, and a majority of directly elected regional representatives.
- F. A board composed entirely of directly elected regional representatives.

There are numerous variations which could be added to these basic models. Thus, qualifications could be added, requiring, for instance, that certain parts of the Region, or certain groups within the Region (e.g. minority ethnic groups, women, merchants, senior citizens, etc.), must be represented on the Board.

With respect to the selection of appointees to the governing authority, there would seem to be room at present for clarification of the criteria which are used, and for improvement in the procedures adopted, in making Provincial appointments to police boards. One option would be to entrust this task to a less obviously partisan body. The Ontario Police Commission, if its independence is guaranteed, might be a suitable candidate. If citizen appointments to the governing authority were to be made by the Region, there would be a similar need for established criteria and procedures for appointment.

Another option worthy of consideration in this area is the establishment of a fixed term of office for appointees to the governing authority. The length of the term should reflect the need to balance the needs for continuity and "new blood" on the governing authority.

## Size of the governing authority

There is ample evidence to indicate that the size of a municipal police governing authority is not necessarily related to its effectiveness. In fact, while large bodies can be cumbersome, they can also achieve things which smaller bodies cannot. One of the most important of these from the point of view of a region such as Niagara Region is diversity/coverage of representation. Larger bodies can also accomplish things through subcommittees, which smaller bodies often cannot.

The research on municipal police governance in different jurisdictions indicates that there is no magic in the numbers 5, 7 or 9. The needs of the Region for diversity and coverage of representation, rather than pre-conceived notions of the effectiveness of different sized bodies, should dictate the size of the police governing authority for the Region.

## Role of the governing authority

The two main options here would seem to be to clarify the governing authority's role and/or to reduce or expand it.

With respect to clarifying the governing authority's role, one option would be to develop a written role statement for the authority, which would itemise the various different aspects of its role. Such a statement would facilitate public debate over the effectiveness of the authority, the appropriateness of its role, and the appropriateness of the emphasis it places on different aspects of its role.

Another potentially useful step in this respect would be to develop a comparable role statement for the Regional Council as to its responsibilities with respect to the police force.

Possible areas for reduction in the role of the governing authority might include its present licensing function, and hearing and adjudicating public complaints against the police. Each of these could be assigned to other special purpose bodies, although legislative amendments would be required to achieve this.

A possible area for expansion of the role of the governing authority might be that of public education with respect to the policing function and the activities of the authority. Currently the Board appears to have little time for this. Research (e.g. into public attitudes towards the police within the Region, and public perceptions of their policing needs and how adequately these are being met by the force) is another area for possible expansion of the role of the governing authority.

## Accountability and relations with Regional Council

Numerous options are worthy of consideration here. Preparation and distribution of an informative annual report of the police force and the governing authority, in which their main activities and priorities are highlighted, would be an obvious starting point. Currently there is no such report.

A more aggressive advertisement of the governing authority's meetings and agenda, and solicitation of public participation in such meetings is another option which has been favoured by some authorities.

Regular (annual or half-yearly) formal meetings between the governing authority and the Regional Council (or a committee thereof), and between the governing authority and area municipalities, at which the governing authority can explain its activities and priorities, and be questioned about them, might also be considered as a means of increasing communication and understanding. The kind of standing consultative committees which have recently been adopted in England are another option which might be adapted to meet the Region's needs.

Research across Canada (Hann et al., 1985) shows that there is a great variety of options for increasing the local accountability (and control) of the budget process for the police force. Options here range from requirements for formal or informal consultations with Regional administrators prior to and during the preparation of the budget (including specification of the basis - such as zero-based budgeting - on which the budget will be drawn up, and the form in which it will be presented), to specification of budgetary increase limits and formal within-budget expenditure control procedures.

Clearly, the main issue for resolution in this area is who should have the final say on the budget. Options here would include: abolishing the appeal procedure to the Ontario Police Commission entirely; retaining it, but only on condition that clear uniform standards for assessing policing needs and the resources needed to sustain them are developed and applied fairly to all municipalities; or developing some other mechanism for resolving budget disputes between the governing authority and the Regional Council. In Saskatchewan, for instance, when there is such a dispute, the municipal council is required to strike a committee consisting of an equal number of council members and police board members, which is assigned to try and resolve the matters in dispute. In England, disputes are the subject of negotiation between the local council and the central Home Office, with the latter having the possibility of withdrawing or reducing its 50% contribution to the area's policing costs.

Given the position which the Niagara Board has taken with respect to the control and accountability of the police budgetary process, it is obvious that any of the options just discussed would require changes in provincial legislation in order to be

put into effect.

### The Ontario Police Commission

The main options with respect to the Ontario Police Commission would seem to be either to maintain the Commission as it is currently conceived, and ensure that it is adequately resourced and organized to perform its role, or to alter its role so that it becomes a more interventionist and directive body.

If the choice were to maintain the Commission in its current role, a variety of measures to improve its performance might be considered. These might include: making it more visibly independent from the Provincial government; diversifying its professional staff to ensure a more visible independence from the "police community" in general, and police management in particular; effecting a clearer separation between its advisory, inspectorial, investigative and quasi-judicial functions; and diversifying the membership of the Commission itself.

If the choice were to expand or alter the role of the Commission, to make it a more interventionist and directive body, options might include: requiring it to develop, and keep under continuous review, clear standards for municipal policing and police governance in the Province, and apply these through regular inspections and audits of municipal police forces and governing authorities; requiring it to monitor the accountability of municipal police governing authorities, and in particular their resort to in camera sessions; and entrusting it with the responsibility for making Provincial appointments to municipal police governing authorities.

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## STUDY OF POLICE GOVERNANCE IN NIAGARA REGION

QUESTIONNAIREA. Background information on the Force

1. Year the Force was established in its present form January 1, 1971
2. How many municipal forces were amalgamated to form the Niagara Region Police Force? ELEVEN (11)

Please list them: Fort Erie - Port Colborne

Welland - Grimsby - Lincoln

Niagara-on-the-Lake, Niagara Falls - Thorold

Pelham - St. Catharines - Wainfleet

3. Had any of these previous municipal police forces been governed by boards of police commissioners (as opposed to municipal councils or their committees)? Yes X No

If yes, please specify: Niagara Falls, St. Catharines, Welland, Port Colborne  
Niagara-on-the-Lake, Thorold, Lincoln, Fort Erie, Grimsby, Pelham

## 4. Current Force strength:

<u>Sworn personnel</u>	<u>Authorised</u>	<u>Actual</u>
Chief	1	1
Deputy Chief(s)	2	2
STAFF Superintendents	0	2
Superintendents	4	2
Staff Inspectors	0	0
Inspectors	15	12
Staff Sergeants	31	25
Sergeants	109	96
Constables	401	405
<u>Civilians</u> (please specify types of positions - e.g. dispatcher, secretary crossing guards etc.)	197	193

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Other

Cadets	0	8
Auxiliary - officers )		1
- constables )	100	36

5. Please provide a copy of the current organization chart for the Force.

Copy provided \_\_\_\_\_ x

6. Approximate size of geographical area policed by the Force:

\_\_\_\_\_ square miles

or 718 square kilometres

7. Approximate size of population within this area: 370,780

8. Number of municipalities currently within this area: 12

9. Fiscal year end date for the Force: December 31st

10. Force budget:

	<u>1983/4</u>	<u>1984/5</u>	<u>1985/6</u>	<u>1986/7</u>	<u>1987/8</u>
Operating	30,414,102	32,857,769	34,753,942	37,812,757	39,162,688
Capital	417,000	-----	205,000	710,000	2,507,000

11. Is the budget for the Police Commission itself included within the Force's budget detailed in the previous answer?

Yes x No \_\_\_\_\_

B. Structure and composition of Police Commission

12. Are there any Commission or Regional By-Laws which relate to the structure, functions, composition, role or relationship to Regional government, of the Police Commission? If yes, please provide copies.

Yes x Copies provided \_\_\_\_\_

No \_\_\_\_\_

13. On what date was the Niagara Region Police Commission established? November 18, 1969

14. Have there been any major changes to the composition ~~or~~ ~~structure~~ of the Commission since that date? Yes x No ==x==

If yes, please specify what changes, and when they occurred:

First major change of political appointees occurred on January 1, 1984

Prior political appointees were in office since 1969

15. Membership of the Commission (since first established):

<u>Chairpersons</u>	<u>Dates served</u>	<u>Male/ female</u>	<u>Occu- pation</u>	<u>Source of appointment*</u>
His Honour Judge <u>D.H. Scott</u>	1969-1977	male	Judge	Provincial
<u>B.P. Davies</u>	1978-1983	male	Lawyer	do.
<u>Gladys Huffman</u>	1984-1985	female	Regional Councillor	
<u>Allan Barnes</u>	1985-1986	male	Manager	Provincial
<u>W.D. Dickson</u>	1986-1987	male	Regional Councillor	
<u>Denise R. Taylor</u>	1987-present	female		Provincial

\* i.e. Provincial or Regional appointee

(Use other side of page, if more space is needed)

Members

<u>William Greaves</u>	1969-1983	male	proprietor	Provincial
<u>I. Buchanan</u>	1969-1978	male	Regional Councillor	
<u>G. Taylor</u>	1969-1972	male	Regional Councillor	
<u>M.F. Hatch</u>	1973-1980	male	Regional Councillor	
<u>W.D. Dickson</u>	1979 -present	male	Regional Councillor	
<u>W. Thomson</u>	1981-1982	male	Mayor Regional Councillor	
<u>G. Huffman</u>	1983-1984	female	Regional Councillor	
<u>A. Barnes</u>	1984-1985	male	manager	Provincial
<u>D. Christie</u>	1984-1985	male	proprietor	Provincial
<u>Beverley Allan</u>	1984-1985		teacher	Provincial
<u>Bob Saracino</u>	1985-present	male	Mayor - Regional Councillor	
<u>Denise Taylor</u>	1986 -present	female		Provincial
<u>R.F. Keighan</u>	1986-present	male	retired	Provincial
<u>J.R. Hanrahan</u>	1986-present	male	DEAN	Provincial

(Use other side of page if more space is needed)

16. How is the chairperson of the Commission chosen as such?

Elected by the Commission itself? yes

Other? (please specify) \_\_\_\_\_

Does he/she serve a specified term as chairperson?

Yes x No \_\_\_\_\_

If yes, duration of term: one year elected annually

17. Is there a Deputy or Vice- Chairperson? Yes x No   

If yes, how is he/she chosen as such?

Elected by the Commission? yes

Other? (please specify) \_\_\_\_\_

Does he/she serve a specified term as such? Yes x No     

If yes, duration of term: one year elected annually

18. Does the Commission have standing or ad hoc committees or sub-committees? Yes x No \_\_\_\_\_

If yes, please indicate what committees or sub-committees have existed, and for what purposes:

Standing committees	Licencing
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## Negotiations

Ad hoc committees      Monitoring

## Monitoring

19. Do persons who are not members of the Commission ever serve on such committees or sub-committees? Yes ☒ No ☐

If yes, please specify:

at various times on the Licencing Committee/and Negotiations

20. What remuneration (if any) do members of the Commission receive for their services as members?

Chairperson: \$8,500

Deputy/Vice-Chairperson: \$6,000

Provincial appointees: \$6,000

Regional appointees: nil

21. Please indicate the size of the budget allocated specifically to the Commission:

1983/4      219., 126

1984/5	253,399
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1985/6	276,169
--------	---------

1986/7	290,885
--------	---------

1007 10 334,669

22. What staff does the Commission itself have?  
Please indicate positions, and whether occupants  
work full-time or only part-time for the Commission:

<u>Position</u>	<u>FT/PT</u>
<u>Administrator</u>	FT
<u>Executive Secretary</u>	FT
<u>A/Issuer of Licences</u>	FT
<u>Licencing Secretary</u>	FT
<u>2 By-Law officers</u>	FT

23. Does any member of the police force act as staff for the  
Commission? Yes \_\_\_ No x

If yes, please specify positions and FT/PT status:

\_\_\_\_\_  
\_\_\_\_\_

C. Procedures of the Police Commission

24. How frequently are the Commission's regular formal meetings  
usually held? once a month

25. What is the typical duration of a regular formal meeting?  
six (6) hours

26. On what kinds of occasions, how often, and for what purposes,  
are non-regular, additional meetings of the Commission held?

whenever necessary  
\_\_\_\_\_  
\_\_\_\_\_

27. How many members of the Commission are required to be  
present at a meeting of the Commission in order to form a  
quorum? three (3)

In order to form a quorum, is it necessary that any  
particular member or class of member of the Commission be  
present (e.g. the Chairperson or Deputy/Vice-Chairperson, at  
least one Provincial appointee, at least one Regional  
appointee, etc.)? Yes x No \_\_\_

If yes, please specify: at least one Regional Councillor  
\_\_\_\_\_

28. Who prepares the agenda for regular formal meetings of the  
Commission? Board Executive Secretary

29. Which people can have items placed on the Commission's agenda? Chairman, Board Members, Board Administrator, Chief of Police

Issuer of Licences

Which people most commonly specify agenda items for the Commission? Chief of Police, Board Administrator, Chairman

30. Apart from Commission members, who attends Commission meetings?

	<u>Always</u>	<u>Frequently</u>	<u>Sometimes</u>	<u>Rarely</u>	<u>Never</u>
Police chief	x				
Deputy chief(s)	x				
Other Force members			x		
Police Association reps.			x public portion only		
Commission staff (please specify: <u>Administrator and Executive Secretary</u> )	x				
Regional solicitor					x
Other Regional staff (please specify: _____)				x	
Regional politicians				x	
Municipal politicians				x	
Press/Newsmedia	x				
Citizens			x		
Other (please specify: _____)					

31. What proportion of the regular meetings of the Commission is typically held in camera? three-quarters - 75%

Who determines which portions of the Commission's meetings shall be held in camera, and on what basis?

Board - property - legal - personnel - sensitive police matters

Motion of the Board defines those items which will be dealt with in camera,

normally Secretary-Chairman assists if clarification requested by Chief or Administrator, etc.

If yes, who? and under what circumstances? Chief of Police, Deputy  
Chiefs, Board Administrator, Executive Secretary

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APPENDIX "B"

NIAGARA REGION POLICE COMMISSION STUDY

PERSONS INTERVIEWED DURING THE STUDY

Members and staff of the Niagara Region Board  
of Commissioners of Police:

Mrs. Denise TAYLOR	Chairperson
Mr. William DICKSON	Member
Mr. Robert HANRAHAN	Member
Mr. Robert KEIGHAN	Member
Mayor Robert SARACINO	Member
Mr. Larry QUATTRINI	Administrator

Former members of the Board of Police Commissioners:

Mr. Albert BARNES	Member 1984-86, Chairperson 1985-86
Mr. Beverley DAVIES	Member 1969-83, Chairperson 1978-83

Members of the Niagara Regional Council:

Mr. Wilbert DICK	(Chairperson)
Mr. William AUGUSTINE	(Port Colborne)
(Mr. William DICKSON	(St. Catharines) - see above)
Mayor Ross HALL	(Grimsby)
Mayor Roland HARDY	(Welland)
Mayor William LONGO	(Thorold)
(Mayor Robert SARACINO	(Port Colborne) - see above)
Mr. John TEAL	(Fort Erie)
Mr. Mal WOODHOUSE	(Thorold)

Members of the Niagara Regional Police Force:

Chief John SHOVELLER  
Deputy Chief Frank PARKHOUSE

Constable Ted JOHNSON	President, Niagara Regional Police Association
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Ontario Police Commission:

Mr. Stanley RAIKE	Special Advisor
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Ministry of the Solicitor General of Ontario:

Mr. Anthony DeSUMMA      Assistant to the Solicitor General

Others:

Mrs. Lillian CLARK      Chairperson, Niagara Citizens'  
Committee

MANDATE OF THE ONTARIO POLICE COMMISSION**42.—(1) It is the function of the Commission.**Functions of  
Commission

- (a) to maintain a system of statistical records and research studies of criminal occurrences and matters related thereto for the purpose of aiding the police forces in Ontario;
- (b) to consult with and advise boards of commissioners of police, police committees of municipal councils and other police authorities and chiefs of police on all matters relating to police and policing;
- (c) to provide to boards of commissioners of police, police committees of municipal councils and other police authorities and chiefs of police information and advice respecting the management and operation of police forces, techniques in handling special problems and other information calculated to assist;
- (d) through its members and advisers, to conduct a system of visits to the police forces in Ontario;
- (e) to require municipalities to provide such lock-ups as the Commission may determine;
- (f) to assist in co-ordinating the work and efforts of the police forces in Ontario;
- (g) to determine whether a police force is adequate and whether a municipality is discharging its responsibility for the maintenance of law and order;
- (h) to inquire into any matter regarding the designation of a village or township under subsection 2 (4) and, after a hearing, to make recommendations therefor to the Solicitor General;
- (i) to operate the Ontario Police College;
- (j) subject to the approval of the Solicitor General, to establish and require the installation of an intercommunication system for the police forces in Ontario and to govern its operation and procedures;
- (k) to conduct investigations in accordance with the provisions of this Act;
- (l) to hear and dispose of appeals by members of police forces in accordance with this Act and the regulations; and
- (m) to exercise the powers and perform the duties conferred and imposed upon it by this Act.

(2) Subject to the approval of the Solicitor General, the Commission may, by order, regulate or prohibit the use of any equipment by a police force in Ontario or its members.  
R.S.O. 1980, c. 381, s. 42.



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